

## Section 504 Manual for Identifying and Serving Eligible Students

Policies and Guidelines



Logan Elm Local Schools

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## **Introduction**

Section 504 of the Rehabilitation Act of 1973 (commonly referred to as "Section 504") prohibits discrimination against students on the basis of disability.

This manual contains information, guidelines, policies, procedures, and forms to achieve compliance with Section 504 with respect to the education of the District's students, in a manner consistent with the District's non-discrimination policies.

The District expects its employees to be knowledgeable about its Section 504 procedures. If you have Section 504 questions concerning either current or prospective students, please contact one of your school's Section 504 coordinators. At the elementary level, the principals are the coordinators. At the middle/high school level, the school counselors are the coordinators.

## **Overview**

Section 504 is a federal law that prohibits discrimination against persons with disabilities. The law provides:

No otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

One of the principal purposes of Section 504 is to ensure that students with disabilities are not denied access to educational facilities, programs, and opportunities on the basis of their disability. For a student to have a disability which may be protected under this law, he or she must:

1. have a mental or physical impairment,
2. which substantially limits,
3. one or more major life activities.

For a student to be considered an "eligible student" under Section 504, all three criteria must be fulfilled.

Under Section 504, schools that receive federal funds may not discriminate against eligible students with disabilities. Section 504 also protects students who have a record of a disability and students who are regarded as having a disability. Discrimination against students in either category is prohibited under Section 504.

Section 504 requires the District to provide a free appropriate public education ("FAPE") to each eligible student who has a physical or mental impairment which substantially limits a major life activity. Under Section 504, FAPE consists of the provision of regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of non-disabled students are met and in accordance with Section 504 requirements pertaining to educational setting,

evaluation, placement, and procedural safeguards. The FAPE obligation extends to all students described in this paragraph, regardless of the nature or severity of their disability. The District shall also, as required by law, attempt to locate and identify each student within the District's jurisdiction who may be an eligible student under Section 504. The District shall evaluate each student identified under Section 504 and provide each eligible student with a FAPE as defined by law.

## **Definitions**

A "free appropriate public education" (FAPE) is the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with a disability as adequately as the needs of non-disabled students are met and is based on adherence to procedures that satisfy Section 504 requirements pertaining to educational setting, evaluation, placement, and procedural safeguards.

An "individual with a disability" is a person who:

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 an impairment.

A "physical or mental Impairment" is:

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

The Section 504 regulation does not provide an exhaustive list of specific diseases or conditions that may constitute a physical or mental impairment because of the difficulty of developing a comprehensive list of possible diseases and conditions.

### **"Substantially Limits"**

A student who has a physical or mental impairment that substantially limits a major life activity is considered a student with a "disability" under Section 504. This determination is made on a case-by-case basis. Neither Section 504 nor its implementing regulations define the term "substantially limits" but the term is not necessarily synonymous with "unable to perform" or "significantly restricted in" a major life activity.

Except for ordinary eyeglasses or contact lenses, the ameliorative effects of mitigating measures may not be considered when assessing whether a student has an impairment that substantially limits a major life activity. "Mitigating measures" include, but are not

limited to: medication; medical supplies, equipment or appliances; low-vision devices (devices that magnify, enhance, or otherwise augment a visual image); prosthetics (including limbs and devices); hearing aids and cochlear implants or other implantable hearing devices; mobility devices; oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; and learned behavioral or adaptive neurological modifications.

A temporary impairment does not constitute a disability for purposes of Section 504 unless it is of such severity that it results in a substantial limitation of one or more major life activities for an extended period of time. This determination is to be made on a case-by-case basis.

If a student has an impairment that is episodic or in remission, the District must consider whether the impairment, when active, would substantially limit a major life activity. If it would, then the student meets the definition of a student with a disability.

#### "Major Life Activities"

To be eligible under Section 504, a student's physical or mental impairment must interfere with one or more "major life activities." A "major life activity" includes, but is not limited to functions such as:

- Caring for oneself
- Performing manual tasks
- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Learning
- Working
- Eating
- Sleeping
- Standing
- Lifting
- Bending
- Reading
- Concentrating
- Thinking

## Communicating

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, and reproductive functions)

This list is not exhaustive. An activity or function not found on the list may nonetheless be a major life activity. A student is protected from all forms of discrimination and is eligible under Section 504 if the student has an impairment that substantially limits one or more major life activities, including, but not limited to, learning.

## "Record of Impairment" and "Regarded as Having an Impairment"

Section 504 also protects students from discrimination who have a record of an impairment or who are regarded as impaired. A student has a "record" of such an impairment if they have a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities. A student is "regarded as" having an impairment the student has a physical or mental impairment that does not substantially limit major life activities but is treated by the District as constituting such limitation, has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment, or does not have a physical or mental impairment but is treated by the District as having such impairment. The District shall not treat students differently based upon a record that shows that the student was disabled in the past, or based upon an assumption or perception of disability. The District is not required to develop a Section 504 plan for a student who either has a record of an impairment or who is regarded as having an impairment, but who is not otherwise currently eligible under Section 504.

## "Current Users of Illegal Drugs"

Section 504 excludes from the definition of a student with a disability any student who is disabled because of his or her current illegal use of drugs. However, there are exceptions for persons in rehabilitation programs who are no longer engaging in the use of illegal drugs.

## Child Find

Every year, the District shall attempt to identify and locate every qualified disabled student residing in the District who is not receiving a public education. The District shall take appropriate steps to notify disabled students and their parents or guardians of the District's Section 504 obligations.

## Pre-Referral Assistance

Pre-referral assistance is an important first step in serving students experiencing

difficulties in school. Teachers may vary instructional and behavioral methodologies and expectations, and, by doing so, meet students' educational and behavioral needs; and thereby strengthen the general education program and reduce unnecessary Section 504 and IDEA formal referrals.

If, at any time, a teacher, counselor, administrator, or other professional staff member suspects that the student's difficulties may be attributable to a disability, the staff member should consult with the student's educators to determine if a referral for an evaluation is appropriate. If a parent/guardian at any time requests an evaluation, the District must determine if a disability is suspected and notify the parent whether an evaluation will be initiated.

## **Parent Rights**

Section 504 guarantees certain rights to parents of students with disabilities. A Section 504 Notice of Procedural Safeguards has been developed for distribution to parents.

### **Section 504: The Process**

This section of the Manual addresses important steps in the Section 504 process including: referral, evaluation, eligibility determination, development of the Section 504 Plan, review, and reevaluation.

#### **A. Referral Procedures**

A student who, because of a suspected disability, is believed to need services under Section 504 is typically referred for a Section 504 evaluation by a parent, guardian, teacher, other certified school employee, the student if 18 years of age or older, or other concerned adult individual.

Upon the receipt of Section 504: Referral from school staff, the parent should be provided with:

- A copy of the referral
- Section 504: Consent to Evaluate.
- Section 504 Notice of Procedural Safeguards

Upon the receipt of a written referral from the parent:

- The parent should be provided with Parent Letter: Receipt of Request for 504 Evaluation and Section 504 Notice of Procedural Safeguards.
- Within 30 days, the district should respond with Section 504: Prior Written Notice, detailing the district's proposal or refusal to evaluate.
- If the district agrees to an evaluation, they will also provide the parent with Section 504: Consent to Evaluate.

Once the District has received parent consent to evaluate, the District will begin the evaluation process. If a parent refuses to consent to an initial evaluation, the District may, but is not required to, use due process hearing procedures to seek to override the parent's refusal to consent to the evaluation. If a parent refuses to consent to a 504 evaluation, the student will not be eligible under Section 504.

#### **B. Evaluation**

The evaluation is the starting point for determining whether a student is an eligible student under Section 504. The District is required to conduct an evaluation before providing Section 504 services. The nature and extent of the information needed to



make a Section 504 eligibility decision is determined on a case-by-case basis by a

group of persons knowledgeable about the student, the meaning of evaluation data, and the placement options, i.e., the Section 504 team. Information obtained through the evaluation process must be documented and all significant factors must be considered. The evaluation must draw upon information from a variety of sources and may include:

- School records review
- Observations of the student
- Standardized tests or other assessments by school staff
- Parent/Student/Teacher interviews
- Behavior rating scales or other checklists
- Pertinent medical information
- Information provided by the parent
- Other relevant information

Where formal testing is determined to be necessary, the evaluation procedures must ensure that:

1. Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer.
2. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.
3. Tests are selected and administered so as best to ensure that when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except when those skills are the facets that the tests purport to measure).

A medical diagnosis of a physical or mental impairment does not, in and of itself, determine Section 504 eligibility. As mentioned above, Section 504 requires the District to draw upon information from a variety of sources in making its eligibility determination. A medical diagnosis is only one source of information. Additionally, the District may request, but cannot require a parent to provide a medical statement or authorize the release of the student's medical information as part of the evaluation process. If the District determines, based upon the facts and circumstances of the individual case, that a medical assessment is necessary for an appropriate evaluation, the District must ensure that the child receives this assessment at no cost to the parents. If alternative assessment methods meet the evaluation criteria, those methods may be used in lieu of a medical assessment. If a parent refuses to consent to a medical assessment and alternative assessment methods are not available, the 504 Team must proceed to make an eligibility determination based on the information it has on hand.

Absent extenuating circumstances, the District's evaluation and the development of a Section 504 Plan, if necessary, should be completed no later than 60 school days following the District's receipt of the parent's consent to evaluate. If an extension of time is required, the parent should be notified in writing of the extension, the reason for the extension, and the expected date of completion of the process.

#### C. Eligibility Determination

The eligibility determination must be made by a group of persons knowledgeable about the student, the meaning of evaluation data, and placement options and must be documented in writing. The parent of the student should be given a meaningful opportunity to provide input into identification, evaluation, and placement decisions for his/her child. Therefore, the parent should typically be included in this process.

#### D. Section 504 Plan

Where a student is found to be eligible under Section 504, the need for a Section 504 Plan must be determined. The Section 504 Team, which must include the parent, will be responsible for determining the services that are needed to provide the students a FAPE. The Plan should specify how services will be provided and by whom. A recommendation from other individuals, such as a medical doctor or counselor, will be considered but not automatically be included in the plan if the team does not find it to be necessary and appropriate. These individuals may be part of the team.

The Section 504 Plan shall be signed by a Section 504 coordinator indicating the District's intent to implement the Plan. A copy of the Plan, along with the Section 504 Notice of Procedural Safeguards, must be provided to the parent.

If a Section 504 Plan is developed for a student, all school personnel with implementation responsibilities must be informed of the existence and particulars of the Plan. Failure to implement the Section 504 Plan can result in non-compliance with Section 504.

#### E. Review of Section 504 Plan

The Section 504 Team should be convened and the student's Section 504 Plan updated whenever the student's situation warrants a review (e.g., during natural transition periods, when a teacher or parent raises concerns, or when the student's performance changes). This will be monitored by a Section 504 Coordinator.

#### F. Reevaluation

A reevaluation must be completed at least once every 3 years to determine a student's continued eligibility under Section 504 and before any significant change in the student's placement.



## **Suspension and Expulsion of Students with Section 504 Plans**

Students who are eligible under Section 504 have certain additional protections when charged with a violation of the student handbook which may result in a suspension or expulsion that constitutes a significant change in placement. Similar to suspension or expulsion of a student with a disability under the IDEA, it is necessary to conduct a manifestation determination for a Section 504 student when:

- The expulsion will be for more than 10 consecutive school days; or
- The number of cumulative suspension days for the school year will exceed 10 school days, and the series of removals constitutes a pattern.

If either of the situations above applies, then the District is required to conduct a manifestation determination before any significant change in student's placement may occur. The parent must be invited to participate in the meeting and provided a copy of the Section 504 Notice of Procedural Safeguards. The purpose of the manifestation determination is to review whether the student's misconduct was caused by, or had a direct and substantial relationship to, the student's disability or whether the conduct was a direct result of the District's failure to implement the student's Section 504 plan.

This determination should be made by a group of persons knowledgeable about the student, the meaning of evaluation data, placement options, the student's Section 504 Plan, and the disciplinary incident. In making its determination, the Section 504 Team must review all relevant information in the student's file, the student's Section 504 plan, any teacher observations of the student, and relevant information provided by the parent.

If the Section 504 Team concludes that the student's conduct is a manifestation of the student's disability, the student must remain in (or be returned to) his/her current educational placement unless the parent and the District agree to change the student's placement. If the Section 504 Team concludes that the student's conduct is not a manifestation of the student's disability, the District may apply the relevant disciplinary actions applicable to all students. Unlike the IDEA, there is no requirement to provide a student whose conduct is not a manifestation of the student's disability with educational services during a period of suspension or expulsion, except to the extent that services are provided to nondisabled students

In the case of a Section 504 student who carries or possesses a weapon to or at school, on school premises, or to or at a school function, the District may place the student in an interim alternative educational setting for up to 45 school days if a student without a disability would be similarly disciplined. The Section 504 team must meet to conduct a manifestation determination review hearing and develop the interim alternative educational setting after evaluating the student as described above in this Manual. The interim alternative educational setting must be educationally appropriate and the services provided must enable the student to continue to progress in the general

curriculum. The interim alternative educational setting must also address the behavior prompting the disciplinary action.

### **Impartial Due Process Hearing**

A parent who disagrees with the identification, evaluation or placement of a student with a disability under Section 504 has the right to request an impartial due process hearing. Requests for a Section 504 due process hearing must be made in writing to the District's Office of Compliance. Upon receipt of such a request, a hearing officer will be appointed. A person who is an employee of the District or any person having a personal or professional interest which would conflict with his/her objectivity in the hearing may not be appointed as a hearing officer. A hearing will be scheduled not more than thirty days after the written request is received. The parent or guardian will receive notice of the hearing, have the opportunity to examine relevant records, and have an opportunity to participate in the hearing and be represented by counsel. The hearing officer will review the information submitted and issue a written report within thirty days after the hearing.

### **Grievance Procedure**

The District has adopted the following Grievance Procedure for addressing complaints of discrimination under Section 504 of the Rehabilitation Act of 1973 and/or Title II of the Americans with Disabilities Act of 1990. A person is not required to use this procedure and may instead file a complaint directly with the U.S Department of Education's Office for Civil Rights, 1350 Euclid Avenue, Suite 325, Cleveland, OH 44115:

### **Initiating a Complaint**

Individuals who feel they have been subjected to unlawful discrimination or retaliation may file a complaint, either orally or in writing, with the compliance officer or an administrator, supervisor or other District-level administrator. Employees are required to promptly report to the compliance officer or an administrator, supervisor, or other District-level administrator when they become aware of incidents of unlawful discrimination or retaliation. All other persons associated with the District are encouraged to promptly report when they become aware of such incidents. Any administrator, supervisor or District-level administrator who receives such a complaint must forward it to the compliance officer. If the compliance officer is the subject of the complaint, an individual may file a complaint with the Superintendent, who shall assume the role of compliance officer for such complaints. If the Superintendent is the subject of the complaint, the complaint should be referred to the Board President.

The Board has adopted separate policies and procedures for sexual harassment. All sexual harassment reports must be managed in accordance with the sexual harassment policy and procedure.

## **Interim Measures**

Upon receiving a complaint, the compliance officer will consider whether any interim measures should be taken to restore or preserve equal access to the District's education program or activity, including measures designed to protect the safety of all parties or the District's educational environment, or deter discrimination. The compliance officer should consider the complainant's wishes with respect to interim measures, but may move forward with any interim measures deemed appropriate.

## **Investigating a Complaint**

The compliance officer shall investigate the complaint to determine whether the complainant has been subjected to unlawful discrimination or retaliation. The investigation may include individual interviews with the parties involved, interviews with individuals who may have observed the alleged conduct or may have other relevant knowledge, and consideration of any documentation or other information presented by the parties or other individuals who may have observed the alleged conduct or may have other relevant knowledge. The respondent will be provided an opportunity to respond to the allegations during the investigative process and before any determinations are made.

The District may refer the investigation to a third party.

At the conclusion of the investigation, the compliance officer shall review the merits of the complaint, summarize the relevant evidence, and prepare and deliver a written report to the complainant and respondent that outlines whether the complainant has been subjected to unlawful discrimination or retaliation. The compliance officer may consult with the Board's legal counsel prior to finalizing the report.

## **Appeal**

If the complainant is not satisfied with the decision of the compliance officer, a written appeal may be filed with the Superintendent or designee within five calendar days of receipt of the compliance officer's response. The Superintendent or designee may decide to hear or deny the request for appeal and may request additional information prior to making a decision. The Superintendent's or designee's decision will be final. A copy of the Superintendent's or designee's final decision shall be sent to the complainant and respondent.

## **Informal Resolution**

At any time during complaint procedure and prior to reaching a determination regarding responsibility, the District may facilitate an informal resolution process that does not involve a full investigation and determination of responsibility provided that the District obtains the parties' voluntary, written consent to the informal resolution

process. If the parties do not reach resolution through the informal resolution process, the parties will resume the complaint procedure at the point they left off.

## **Section 504 Forms**

Logan Elm Local Schools uses SameGoal for the following forms as needed.

Section 504: Parent Consent

Section 504: Referral

Section 504: Release of Information

Section 504: Physician Questionnaire

Section 504: Parent Invitation

Section 504: Prior Written Notice

Section 504 :Evaluation

Section 504: Plan

Section 504: Manifestation Determination Review

Section 504: Discontinuation

Additional Forms found below:

Section 504 Procedural Safeguards

Parent Letter: Receipt of Request for 504 Evaluation



## **Section 504 Procedural Safeguards**

### **Parent and Student Rights in Identification, Evaluation and Placement**

Below is a description of the rights granted by federal law to parents and students with disabilities. The intent of this document is to keep you fully informed concerning decisions about your student and to inform you of your rights if you disagree with any of these decisions. You have the right to the following:

- Right to have your student with disabilities take part in, and receive benefits from public education programs without discrimination because of his/her disability;
- Right to receive all information in the parent's or guardian's native language or primary other mode of communication;
- Right to have your student receive a free appropriate public education which includes the right of the student to be educated with students without disabilities to the maximum extent appropriate;
- Right to have your student have equal opportunity to participate in school programs and extracurricular activities sponsored by the school;
- Right to receive notice in a reasonable time before a district identifies, evaluates or changes your student's placement;
- Right to inspect and review all of your student's educational records, and the right to amend the record if you believe information contained in the record is inaccurate or misleading. If the school district refuses to amend the record, you have a right to request a hearing;
- Right to have educational evaluation and placement decisions made based on information from a variety of sources and by persons who know the needs of the student, meaning of evaluation data, and placement options;
- Right to periodic reevaluation and evaluation before any significant change in placement; and
- Right to an impartial hearing if you disagree with the school district's proposed action. You will be an active participant. You have the right to be represented by counsel in the impartial hearing process. You have the right to appeal the impartial hearing officer's decision.

Logan Elm Schools Compliance Officer  
Amy Colburn  
9579 Tarlton Rd  
Circleville, Ohio 43113  
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Phone 740-474-7501



Dear Parents and Guardians,

We have received your request to evaluate \_\_\_\_\_ for a potential Section 504 Plan. The school district will respond within 30 days to the request. The response will be a Section 504: Prior Written Notice that details the school district's decision to evaluate or not. The Section 504 Procedural Safeguards Notice to Parents is included with this letter.

If the school district agrees to evaluate your child, the evaluation may include school records review, observations of the student, standardized tests or other assessments by school staff, parent/student/teacher interviews, behavior rating scales or other checklists, pertinent medical information, information provided by the parent/guardian, other relevant information, and standardized assessments.

If the school district proposes to evaluate your child, it will typically complete the initial evaluation within 30 days of your provision of . An evaluation will determine if your student is a child with a disability under Section 504, which is defined as a child who (1) has a mental or physical impairment, (2) which substantially limits, (3) one or more major life activities. For a student to be considered an "eligible student" under Section 504 of the Rehabilitation Act of 1973, all three criteria must be fulfilled.

Amy Colburn  
Curriculum Director  
District 504 Coordinator