

Lexington Local Schools



SECTION 504 GUIDEBOOK

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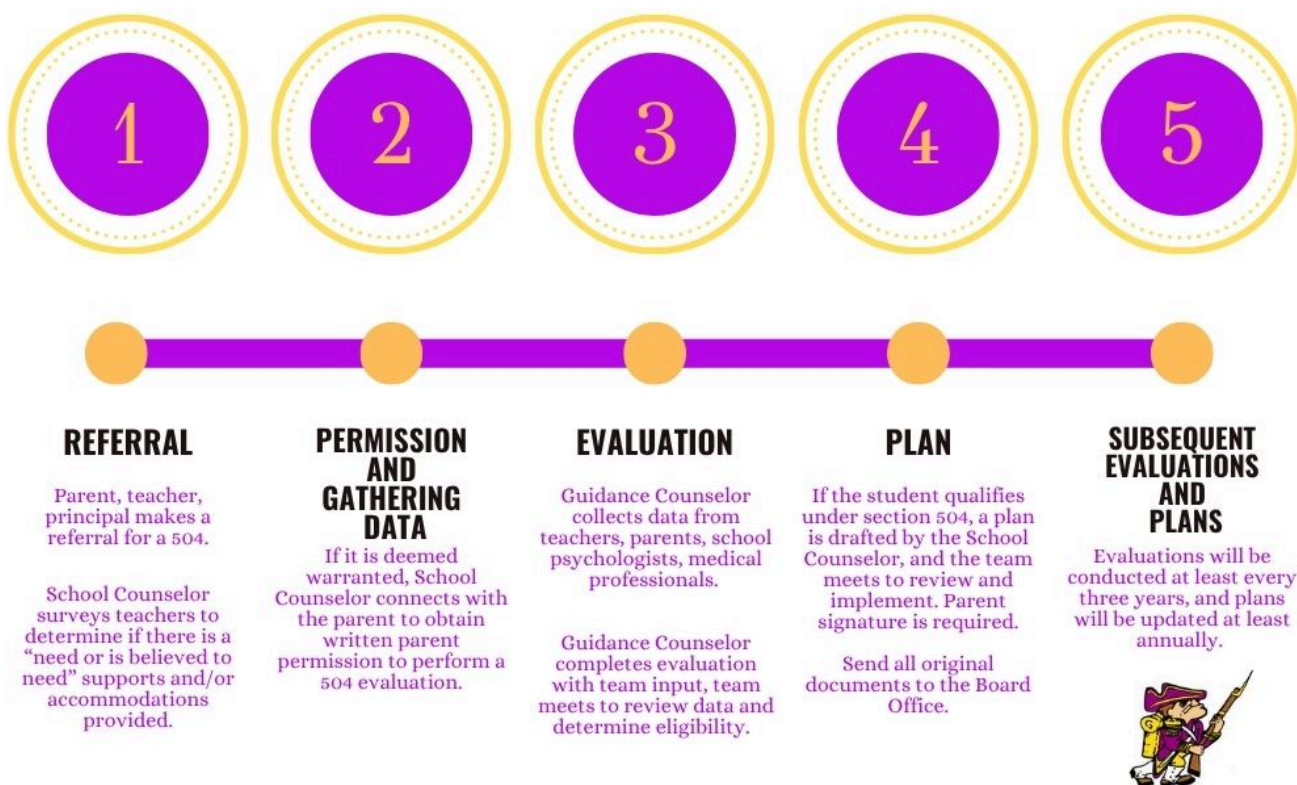
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Section 504 Referral Flow Chart

504 Referral Process



Section 504 Overview

Who Is Eligible?

Any person that has a physical or mental impairment that substantially limits one or more of the person's major life activities, who is found eligible after a 504 evaluation.

Major Life Activities

Merely having an impairment does not make one disabled for the purpose of Section 504. A student must demonstrate that the impairment substantially limits a major life activity. This must be made on a case-by-case basis. The term "major life activities" includes, but is not limited to, several activities,

including caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. This is a non-exhaustive list.

The term "major life activity" includes the operation of a major bodily function, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

"Substantially Limits"

Unable to perform a major life activity that the average person in the general population can perform.

Must consider:

- nature and severity of impairment
- duration or expected duration of impairment
- permanent or long-term impact resulting from the impairment

Who Should Be Considered?

Any student referred for IDEA but the decision is not to evaluate;

Any student evaluated for IDEA but determined not to be eligible;

Any student suspected of having any disability;

Any student that continues to display behavior problems;

Any student with a major health problem;

When a parent requests consideration for 504 services;

When a teacher requests consideration for 504 services.

Who Makes a Referral?

Anyone can make a referral for a 504 evaluation, however referrals are generally made by teachers and parents.

Who Evaluates? Who Determines Eligibility?

"A group of knowledgeable people." Placement decisions should be made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. This team includes the child's parent or guardian. A group is made up of 3 or more members.

Requirements for Evaluation

Determine if a physical or mental impairment is present;

Determine if the impairment results in a substantial limitation of one or more major life activities (not limited to learning or impact on educational performance);

In interpreting evaluation data and in making placement decisions, the evaluation team shall draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.

A variety of evaluation data must be used. (This data may include group standardized testing, screening tests for ability and achievement, work sample, record review, and observations.)

Reevaluation

Lexington Local Schools will reevaluate students who have previously qualified under section 504 at least every three years. Schools are required to reevaluate students who are receiving 504/ADA services *periodically*, before a *significant change* of placement; or when conditions warrant.

Consent for Evaluation

Written parent consent prior to a 504 evaluation will be obtained.

Student/Parent Rights

Informed of specific due process rights
Equal academic/non-academic activities
Appropriate education in least restrictive environment
Notice re: referral, evaluation, and placement
Fair evaluation
Administrative appeals process
Examine/obtain copies of all relevant school records

Eligibility Determination

The team must determine “*if there is a substantial limitation to one or more major life activities.*” This is obtained through discussion.

Requirements for 504 Plan

Determine, as a team, including the parent the types of accommodations and placement required to enable the student to receive a free and appropriate education.

Examples of Related Aids and Services If the Student is Determined to Have a Disability (which is not an exhaustive list)

- Seating arrangements
- Homework assignments
- Accommodations for testing
- Readers or taped materials
- Grouping arrangements
- Adjusted class schedule
- Access to physical education program

Testing Accommodations

Section 504 requires that students with a 504 plan must be provided with appropriate test accommodations, when necessary. The team will determine appropriate test accommodations which will be incorporated in the Section 504 plan. Section 504 plans may, as necessary, for individual students include testing accommodations for the district and statewide assessments.

A student with a 504 plan will receive only the testing accommodations specified in the 504 plan for the district and statewide assessments. Please see [Ohio's Accessibility Manual](#) (updated annually, usually in September) for allowable testing accommodations.

Discipline

Students served under Section 504 and the ADA are treated similar to students served under IDEA with regard to discipline. A disciplinary removal of more than ten days is considered a significant *change of placement* requiring a manifestation determination to determine if the behavior is related to the student's disability.

A series of suspensions that are each of ten days or fewer in duration that creates a pattern of exclusions may also constitute a significant change in placement. The determination of whether a series of suspensions creates a pattern is made on a case-by-case basis. In no case, however, may serial, short exclusions be used to avoid the requirement of a manifestation determination before suspensions of more than ten days. Among the factors considered in determining whether a series of suspensions has resulted in a "significant change in placement" are the length of each suspension, the proximity of the suspensions to one another, and the total amount of time the child is excluded from school. A series of suspensions that, in the aggregate, are for ten days or fewer are not a significant change in placement. Administrators will communicate with the 504 Compliance Officer(s) when a student has reached 10 days. The Compliance Officer(S) will begin the Manifestation Determination Review process.

Section 504 Administrative Guidelines for Identification, Evaluation, and Placement of Students with Disabilities

I. PROCEDURES FOR NEW SECTION 504 INQUIRIES – STUDENTS

A. Referral – Requests for an evaluation of a student to determine eligibility for a 504 plan may be made by parents, teachers, or other knowledgeable professionals by a written referral. Referrals may be made at any time during the school year.

Any staff member receiving a referral request from a parent, shall alert the building principal and the District Section 504 Coordinator. Verbal requests by a parent for an evaluation shall be documented by the staff member receiving the verbal request by sending an email to the building principal, and the

District Section 504 Coordinator with the date of the request, parent and student name. Other than for parental requests for an evaluation, school staff are encouraged to contact the Building Principal to seek input and/or guidance regarding the need for an evaluation.

B. Gathering Data – The School Counselor will gather data from, but not limited to, teachers, state testing, and parents to determine if there is a “need or believed need” for a Section 504 evaluation.

C. Assessment – The 504 Evaluation Team will collect all relevant information on the student (i.e. medical reports, doctor reports, medication, grade cards/report cards, school history, disciplinary action, etc.) to assist in documenting the following:

1. Whether the student has a physical or mental impairment that:

Substantially limits one or more major life activities such as caring for one’s self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. This list is not exhaustive.

Or causes limitations on a major life activity which may include the operation of a major bodily function, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions. This list is not exhaustive.

Written parental consent shall be obtained prior to, and for an evaluation and a copy of student and parental rights sent. An evaluation is then performed and the eligibility determination and the information upon which it was based should be carefully documented in writing.

Reevaluations: The team will review and plan for a reevaluation which must be done periodically (a minimum of every three years), prior to a significant change of placement or if conditions warrant. Transferring a student from one type of program to another or terminating or significantly reducing a related service is a significant change in placement. When a reevaluation is needed, written parental consent shall be obtained and a copy of student and parental rights provided to the parent.

D. Eligibility Determination – Following completion of the assessment/evaluation, the School Counselor will schedule a Team meeting to review the information, determine eligibility, and determine how to proceed.

Information to be considered by the team should include individual or group achievement tests, student work samples, observations, behavior checklists, teacher rating scales, teacher information, school records, medical information, and parent information.

E. Factors that should be considered by the Team in determining whether a student’s physical or mental impairment substantially limits his/her learning are as follows: (generally, multiple factors will be necessary to demonstrate substantial limitation)

1. Has the student demonstrated a consistent need for substantially more time to complete homework assignments than required by students without disabilities?

2. Has the student demonstrated a consistent need for substantially more time to complete in-school assignments than required by students without disabilities?
3. Is modified testing consistently necessary for the student to be able to demonstrate knowledge?
4. Does the student exhibit frequent behaviors, such as drowsiness, impulsivity, inattentiveness, or aggressiveness, associated with an identified physical or mental impairment or medication taken to address the condition and do these behaviors significantly interfere with school performance?
5. Does the student exhibit significant difficulty with planning, organization and execution of school-related activities and assignments?
6. Is the student chronically absent or tardy for reasons related to a diagnosed physical or mental impairment and are such absences or tardies interfering with his/her school performance?
7. Has the student experienced a steady decline in academic performance for which there is no known cause other than the diagnosed physical or mental impairment?
8. Has the student experienced a steady increase in disciplinary interventions for which there is no known cause other than the diagnosed condition?
9. After at least two intervention strategies have been implemented in regular education, does the student still exhibit significant learning difficulties?

****Please note that a student is not required to have a substantial limitation on learning to be eligible under Section 504. The Team must also consider whether the student has a physical or mental impairment that has a substantial limitation on one or more other major life activities as well as learning.**

F. Guidelines for medical documentation when a student is suspected of being disabled.

1. If the District determines, based on the facts and circumstances of the individual case, that a medical assessment is necessary to make an appropriate evaluation, the District must ensure the student receives this assessment at no cost to the parents. If alternative assessment methods meet the evaluation criteria, these methods may be used in lieu of a medical assessment.
2. The District may ask but not require a parent or a student to provide a medical statement if the District suspects the student has a disability that would result in eligibility for a 504 plan.
3. If the District does not believe the student has a disability that would result in Section 504 eligibility, then the District is not required to conduct an evaluation of the student. However, the District must provide the parents with written notice of the decision not to evaluate the student and the Section 504 Parent Information Brochure which includes the Notice of Parent and Student Rights.

G. Possible outcomes of the meeting:

1. Student is determined to be eligible for free appropriate public education pursuant to a Section 504 Plan;
2. Student is determined to be ineligible as a student with a disability under Section 504 to receive services pursuant to a Section 504 Plan but does need some interventions that can be developed by the Team;
3. The Team determines that it needs to collect more information before making an eligibility determination (Parents, Doctors, Observations, MFE, etc.); or
4. Student determined ineligible as a student with a disability under Section 504 to receive services pursuant to a Section 504 Plan and has no need for special school/classroom interventions. Students will be served appropriately in the regular education program without specific interventions. The record of the District's proceedings should reflect the identification of the student as not disabled under Section 504, and state the basis for the decision that no special services/accommodations are presently needed.

H. If a Section 504 Plan is determined to be appropriate, a Team meeting will be scheduled to develop and complete the Section 504 Plan Form. The parents will be invited to the meeting to provide input. As an option to attend a meeting, the parents can participate in a meeting by telephone conference or video conference. If the parents are not able to participate in the meeting, the District will attempt other means to obtain parental input before finalizing a placement decision. Aside from the description of the student's disability or related services needed, the Plan should also specify how the regular education and related aids and services will be provided, and by whom. The Section 504 plan, when applicable, will specify the amount of services to be provided. The Section 504 Plan should include parent/team signatures. A copy of the Plan should also be placed in the student's cumulative folder. If the parents are not present at the meeting or participate by telephone conference, a copy of the 504 plan will be sent to the parents requesting that they give written input to the plan. The parents will also be asked to give written consent to the plan if there are no revisions they want to make to the plan. One way that the parents give written consent is by signing the plan. The parents will be provided with a copy of the Parent and Student Rights.

The initial 504 plan cannot be implemented without parental consent. Subsequent 504 plans can be implemented without parent consent if there is not a significant change of placement. A copy of the 504 Plan and the Section 504 Parent and Student Rights must be provided to the student's parents each time a 504 plan is developed.

I. If the parents want to challenge the actions regarding identification, evaluation or placement of their child, the Board must provide a due process hearing before an impartial hearing officer to resolve the dispute. Information about due process procedures will be provided to the parents by the 504 District Coordinator, upon request.

J. The provisions regarding parents also apply to guardians whenever a student has a guardian acting on their behalf.

II. PROCEDURES FOR EXISTING SECTION 504 PLANS – STUDENTS

A. Annual review.

1. At the beginning of each school year (August – September), a list of students who have had Section 504 Plans in the past school year are given to the school counselors by the building principal. The requirements of a student's 504 plan will be provided by the building principal or their designee to every teacher and coach who has the student.
2. The 504 Team will review the Section 504 Plan on or before the annual review due date.
3. The student's parents will be notified of the need to review the Section 504 Plan. The parents will be invited to a meeting with the 504 team by the school counselor.
4. The purpose of the meeting will be to formulate a Section 504 Plan for the student. Knowledgeable individuals included in the meeting may be as follows: Parents, Student, Building Principal, Guidance Counselor, School Medical Personnel, Teachers, and 504 Coordinator are possible team members.

The 504 Team should decide whether to: (1) continue the plan; (2) discontinue; or (3) write a new plan.

The 504 Team will review and plan for a reevaluation which must be done periodically (a minimum of every three years), prior to a significant change of placement or when conditions warrant. Discontinuing the plan or writing a new plan including a significant change of placement, will require a reevaluation.

1. The parents will be notified to provide input to the plan. A final copy of the plan will be sent to the parents, along with the procedural safeguards. If the parents do not give written consent to the plan, it can still be implemented unless there is a significant change of placement.
2. A copy of the Plan will be placed in a confidential filing system at the building level.

B. During the school year the Section 504 Plan can be reviewed by the team at any time if concerns develop as to the appropriateness of the services or accommodations being provided. This review can be initiated by staff or parents.

C. Procedural safeguards for parents and students are contained in the 504 program software and can be printed for parents as a hardcopy, or pdf. The notice of procedural safeguards is to be provided to the parent with respect to actions regarding the identification, evaluation, or educational placement (including creation of a 504 plan) of students who, because of their disability, receive services under Section 504.

The procedural safeguards include notice, an opportunity for the parents or guardian of the student to examine relevant records, an impartial hearing with an opportunity for participation by the student's parents or guardian and representation by counsel, and a review procedure.

Anytime the written results of a meeting are provided to the student's parents, the notice of parent and student rights will be provided to the parents.

Provide a copy of the procedural safeguards to the parents at any team meeting and at least with the development of any plan.

D. If the parents challenge the actions of the District regarding identification, evaluation or placement of their child, the Board must provide a due process hearing before an impartial hearing officer to resolve the dispute. See Section 504 Grievance Procedures.

E. The provisions regarding parents also apply to guardians whenever a student has a guardian acting on their behalf.

Board Policy

2260.01 - SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY

Pursuant to Section 504 of the Rehabilitation Act of 1973 ("Section 504"), the Americans with Disabilities Act of 1990, as amended ("ADA"), and the implementing regulations (collectively "Section 504/ADA"), no otherwise qualified individual with a disability shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The Board of Education does not discriminate in admission or access to, or participation or treatment in its programs or activities. As such, the Board's policies and practices will not discriminate against students with disabilities and the Board will make its facilities, programs, and activities accessible to qualified individuals with disabilities. No discrimination will be knowingly permitted against any individual with a disability on the sole basis of that disability in any of the programs, activities, policies, and/or practices in the District.

"An individual with a disability" means a person who has, had a record of, or is regarded as having, a physical or mental impairment that substantially limits one or more major life activities. Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active.

The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, assistive technology, reasonable accommodations or auxiliary aids or services, or learned behavioral or adaptive neurological modifications.

With respect to public preschool, elementary and secondary educational services, a qualified person with a disability means a disabled person:

- A. who is of an age during which nondisabled persons are provided educational services;
- B. who is of any age during which it is mandatory under Ohio law to provide educational services to disabled persons; or
- C. to whom the State is required to provide a free appropriate public education pursuant to the Individuals with Disabilities Education Improvement Act (IDEIA).

With respect to vocational education services, a qualified person with a disability means a person with a disability who meets the academic and technical standards requisite to admission or participation in the vocational program or activity. The Board will not deny a student with disabilities access to its vocational education programs or courses due to architectural and/or equipment barriers, or because the student needs related aids or services to receive an appropriate education.

Compliance Officer(s)

The Board designates the following individual(s) to serve as the District's 504 Compliance Officer(s)/ADA Coordinator(s) (hereinafter referred to as the "District Compliance Officer(s)").

Kevin Young

Assistant Superintendent

419-884-2132

103 Clever Ln.

Lexington, OH 44904

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Dr. Julie Borchers

Special Education Director

419-884-2132

103 Clever Ln.

Lexington, Oh 44904

borchers.julie@lexington.k12.oh.us

The name(s), title(s), and contact information of this/these individual(s) will be published annually on the School District's web site.

Building Directors shall serve as Building Section 504/ADA Compliance Officer(s) ("Building Compliance Officer(s)").

The District Compliance Officer(s) are responsible for coordinating the District's efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the ADA. A copy of Section 504 and the ADA, including copies of their implementing regulations, may be obtained from the District Compliance Officer.

The District Compliance Officer(s) will oversee the investigation of any complaints of discrimination based on disability, which may be filed pursuant to the Board's adopted internal complaint procedure, and will attempt to resolve such complaints.

The Board will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA. See below. The Board will further establish and implement a system of procedural safeguards in accordance with Section 504, including the right to an impartial due process hearing. See AG 2260.01B.

Training

The District Compliance Officer(s) will also oversee the training of employees in the District so that all employees understand their rights and responsibilities under Section 504 and the ADA, and are informed of the Board's policies, administrative guidelines and practices with respect to fully implementing and complying with the requirements of Section 504/ADA.

The Board will provide in-service training and consultation to staff responsible for the education of persons with disabilities, as necessary and appropriate.

Facilities

No qualified person with a disability will, because the District's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504/ADA applies.

For facilities constructed or altered after June 3, 1977, the District will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the District is committed to operating its programs and activities so that they are readily accessible to persons with disabilities. This includes, but is not limited to, providing accommodations to parents with disabilities who desire access to their child's educational program or meetings pertinent thereto. Programs and activities will be designed and scheduled so that the location and nature of the facility or area will not deny a student with a disability the opportunity to participate on the same basis as students without disabilities.

Education

The Board is committed to identifying, evaluating, and providing a free appropriate public education (FAPE) to students within its jurisdiction who have a physical or mental impairment that substantially limits one or more major life activities, regardless of the nature or severity of their disabilities.

An appropriate education may include regular or special education and related aids and services to accommodate the unique needs of students with disabilities. For students with disabilities who are not eligible for specially designed instruction under the IDEIA, the special education and related aids and services (including accommodations/modifications/interventions) they need in order to have their needs met as adequately as the needs of nondisabled students are met, shall be delineated, along with their placement, in a Section 504 Plan (Form 2260.01A F13). Parents/guardians/custodians ("parents") are invited and encouraged to participate fully in the evaluation process and development of a Section 504 Plan. The quality of education services provided to students with disabilities will be equal to the quality of services provided to students without disabilities.

The Board is committed to educating (or providing for the education of) each qualified person with a disability who resides within the District with persons who are not disabled to the maximum extent appropriate. Generally, the District will place a person with a disability in the regular educational environment unless it is demonstrated that the education of the person in the regular environment, even with the use of supplementary aids and services cannot be achieved satisfactorily. If the District places a person in a setting other than the regular educational environment, it shall take into account the proximity of the alternate setting to the person's home. If the Board operates a separate class or facility that is identifiable as being for persons with disabilities, the facility, program, and activities and services must be comparable to the facilities, programs, and activities and services offered to students without a disability.

The Board will provide non-academic extracurricular services and activities in such a manner as is necessary to afford qualified persons with disabilities an equal opportunity for participation in such services and activities. Non-academic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, referrals to agencies that provide assistance to persons with disabilities, and employment of students. In providing or arranging for the provision of meals and recess periods, and non-academic and extracurricular services and activities, including those listed above, the District will verify that persons with disabilities participate with persons without disabilities in such services and activities to the maximum extent appropriate.

Notice

Notice of the Board's policy on nondiscrimination in education practices and the identity of the District's Compliance Officer(s) will be published on the District's website and posted throughout the District and included in the District's recruitment statements or general information publications.

Complaint Procedures

If a person believes that s/he has been discriminated against on the basis of his/her disability, the person may utilize the following complaint procedures as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter.

In accordance with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations ("Section 504"), parents and students will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation or misapplication of Section 504. In addition, students and their parents will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights. Finally, students and parents will be advised of their right to request a due process hearing before an Impartial Hearing Officer (IHO) regarding

the identification, evaluation or educational placement of persons with disabilities, and their right to examine relevant education records.

Internal complaints and requests for due process hearings must be put in writing and must identify the specific circumstances or areas of dispute that have given rise to the complaint or the request for a hearing, and offer possible solutions to the dispute. The complaint or request for due process hearing must be filed with a District Compliance Officer within specified time limits. The District's Compliance Officer is available to assist individuals in filing a complaint or request.

Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Internal Complaint Procedures

An internal complaint may be filed by a student and/or parent. A student and/or parent may initiate the internal complaint procedure when s/he/they believe that a violation, misapplication or misinterpretation of Section 504 has occurred. Additionally, the following procedure may be used for any disagreement with respect to actions regarding the identification, evaluation, or educational program or placement of students who are identified as disabled or believed to be disabled pursuant to Section 504, and are not eligible under the IDEIA, except in the case of disciplinary actions where the provisions of the Student Code of Conduct apply. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the U.S. Department of Education's Office for Civil Rights or requesting a due process hearing.

Step 1

Investigation by the Building Compliance Officer: A student or parent may initiate an investigation by filing a written internal complaint with the Building Compliance Officer. The complaint should fully describe the circumstances giving rise to the dispute and how the child is adversely affected. The complaint must be filed as soon as possible, but not longer than thirty (30) days after disclosure of the facts giving rise to the complaint. The Building Compliance Officer shall conduct an impartial investigation of the complaint. As part of the investigation, the Building Compliance Officer shall permit the complainant to present witnesses and other evidence in support of the complaint. The investigation shall be completed within fifteen (15) days of the written complaint being filed. The Building Compliance Officer will notify the complainant in writing of his/her decision.

Step 2

Appeal to the District Compliance Officer: If the complaint is not resolved satisfactorily at Step 1, the student or parent may appeal the Building Compliance Officer's decision in writing to the District Compliance Officer. The appeal must be made within five (5) days following receipt of the Building Compliance Officer's decision. The District Compliance Officer will review the case, may conduct an informal hearing, and will notify all parties in writing of his/her decision within ten (10) days of receiving the appeal.

Step 3

If the complaint is not resolved satisfactorily at Step 2, the student or parent may request a due process hearing, provided the complaint involves an issue related to the identification, evaluation, or placement of the student.

If it is determined that the Complainant was subjected to unlawful discrimination, the Building and District Compliance Officer(s) must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

OCR Complaint

At any time, if a student or parent believes that s/he has been subjected to discrimination based upon his/her disability in violation of Section 504 or the ADA, the individual may file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"). The OCR can be reached at:

The OCR office for Ohio is located at:

Denver Office

Office for Civil Rights

U.S. Department of Education

Cesar E. Chavez Memorial Building
1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582
Telephone: 303-844-5695
FAX: 303-844-4303; TDD: 800-877-8339
Email: OCR.Denver@ed.gov

Except in extraordinary circumstances, the OCR does not review the result of individual placement and other educational decisions, so long as the District complies with the "process" requirements of Subpart D of Section 504.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the ADA, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Frequently Asked Questions

1. What are the guidelines or criteria that determine if a child qualifies for 504/ADA?

A group of knowledgeable individuals in the school makes a determination whether or not a physical or mental impairment results in a substantial limitation of one or more major life activities. At minimum: General Education Teacher, Administrator, and Parent

2. Does an evaluation of no exceptionality automatically qualify a student for 504/ADA?

No. In order to be eligible for Section 504/ADA services, a student must have a physical or mental impairment, and undergo a 504 evaluation. A student does not have to have a clinical label in order to be eligible for services.

3. Does a child qualify for 504/ADA while being evaluated or before being evaluated for IDEA?

Not unless the child has a physical or mental impairment that results in a substantial limitation of a major life activity. Being referred for IDEA services is not linked to eligibility under 504/ADA.

4. Should a 504/ADA plan be written on a student who is referred for an IDEA evaluation at the time of referral?

No. If after an evaluation under IDEA, the student is determined not eligible for special education, the student may still be eligible for a 504 plan if the student meets the conditions under which a 504 plan should be written.

5. When does a student qualify for 504 due to behavioral problems?

When a group of knowledgeable persons determines that the behavior is a result of a physical or mental impairment and a major life activity has been substantially limited.

6. Can a 504/ADA student be expelled/suspended?

Yes, if a manifestation determination indicates that the disability is not related to the behavior and the behavior results in expulsion or suspension for other students.

7. A disciplinary removal of more than ten days is considered a significant change of placement requiring a manifestation determination.

A series of suspensions that are each of ten days or fewer in duration that creates a pattern of exclusions may also constitute a "significant change in placement." The determination of whether a series of suspensions creates a pattern is made on a case-by-case basis. In no case, however, may serial, short exclusions be used to avoid the requirement of a manifestation determination before suspensions of more than ten days.

Among the factors considered in determining whether a series of suspensions has resulted in a "significant change in placement" are the length of each suspension, the proximity of the suspensions to one another, and the total amount of time the child is excluded from school.

A series of suspensions that, in the aggregate, are for ten days or fewer are not a significant change in placement.

8. What safeguards/rights are related to expulsion/suspension?

A manifestation determination must be made. If the determination is that the behavior is related to the disability, then the student may not be expelled or suspended for more than ten days. If it is determined that the child's misconduct is caused by the child's disability, the team must determine whether the child's current 504 plan and educational placement is appropriate.

If there is no relationship, the student can be disciplined like other students.

9. Do educational services have to be provided to a student with a 504 plan who is expelled or suspended because there is no relationship between the behavior and disability?

No, if a manifestation determination indicates that the disability is not related to the behavior and the student is then either expelled or suspended, educational services do not have to be provided to the student during the time of expulsion or suspension.

10. Should there be written documentation that a parent has been invited to a meeting?

Yes. Parents must be notified about procedures under 504 and the ADA and documentation should be kept verifying such notification.

11. Is there any recourse for a child with ADD/ADHD who is on medication, but is not taking it at home? Is the 504 plan still in effect?

Schools cannot dictate whether or not students take medication. This is strictly a parent decision. Schools must educate and provide accommodations for the child however he presents himself – with or without the medication.

12. What are suggested accommodations for assistance with behavior in general classrooms for 504 students with behavior disorders?

Some possible accommodations to address behaviors include a behavior intervention plan, seating arrangement, positive reinforcements, and individual behavioral contract. A student's Section 504 plan must be individually tailored to address the student's needs. It is possible that a student on a 504 plan could be evaluated, qualify for services under IDEA, and be placed on an IEP if the team determines it is necessary for a free appropriate public education.

13. Whose responsibility is it to notify the school of a diagnosis when a student has been to a doctor or mental health facility?

The parents. Medical information is confidential and can only be shared with parental consent. However, the school is obligated to evaluate a student with a suspected disability. The school cannot require parents to provide medical information. If the school needs written information to complete an evaluation of a student with a suspected disability then it is the school's responsibility to provide that assessment.

14. Can students with consistent behavior problems (suspensions/past expulsions) qualify for 504 without an official diagnosis?

Yes. If the team determines that a physical or mental impairment exists that substantially limits a major life activity, then the team may make the determination that the child is eligible. No specific clinical diagnosis is required.

15. If a parent disagrees with the decision of the 504/ADA committee, what should be the next step?

The parent must be informed of his/her due process rights. The decision to appeal the decision is the parent's.

16. Should a student who is gifted/talented, with behavior problems, have a 504 plan?

A child who is gifted/talented is not precluded from placement on a 504 plan, if that child has a physical or mental impairment that substantially limits one or more major life activities.

17. Does a student have to be on medication if they are 504/ADD/ADHD?

No. To medicate or not is the parent's decision.

18. Can a student be identified as both a disabled student and a Section 504 and under the IDEA and have both a Section 504 Plan and an IEP?

No. The student would have either an IEP or a Section 504 Plan based upon an evaluation under IDEA and/or Section 504.