



Whitko Community School Corporation Special Services

PROCEDURES FOR SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 is part of the Rehabilitation Act of 1973, and requires public schools to provide a free appropriate public education to children with disabilities. The main purpose of Section 504 is to prohibit discrimination while assuring that disabled students have educational opportunities and benefits equal to those provided to non-disabled students. Section 504 does not provide financial support to schools.

A student is considered to be disabled under Section 504 if he or she (1) has a physical or mental impairment that *substantially* limits one or more major life activities, or (2) has a record of such an impairment, or (3) is regarded as having such an impairment. A substantial limitation therefore serves as a barrier preventing equal access to a major life activity. Limiting a major life activity is an important part of this definition and includes disabilities that limit taking care of oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing or learning (e.g., children who have AIDS, asthma, and/or diabetes may be covered under Section 504).

Section 504 of the Rehabilitation Act of 1973:

- Provides appropriate education for children who do not fall within the disability categories specified in Part B *Individuals with Disabilities Education Act* (IDEA). Examples of potential conditions not typically covered under Part B (IDEA) are:
 - communicable diseases (HIV, tuberculosis), medical conditions (asthma, allergies, diabetes, heart disease), temporary medical conditions due to illness or accident, drug/alcohol addiction.
- Requires that a free appropriate public education be provided to each qualified child who is disabled but does not require special education and related services under Part B (IDEA). A free appropriate education (FAPE) under Section 504 includes:
 - regular or special education and related aids and services that are designed to meet the individual student's needs and are based on adherence to the regulatory requirements of the education setting, evaluation, placement, and procedural safeguards.
- Guarantees parents the right to contest the outcome of an evaluation if a local district determines that a child is not disabled under Section 504.
- Requires the local district to make an individualized determination of the child's educational needs for regular or special education or related aids and services if the child is found eligible under Section 504.
- Requires the implementation of an Alternative Learning Plan (ALP). One means of meeting the free appropriate public education requirements of Section 504 is to follow the guidelines as set forth in the regulations for Part B (IDEA).
- Requires that the child's education be provided in the regular education classroom unless it is demonstrated that education in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.
- Requires that necessary adjustments be made in the regular classroom for children who qualify under Section 504.

An accommodation plan for a student covered by Section 504 must be based on a child's educational needs and may include curricular, classroom, school and grading modifications.

In order to be qualified, as the term is applied to preschool, elementary and secondary school students, a child must be "(i) of an age during which non-disabled persons are provided such services, (ii) of any age during which it is mandatory under state law to provide such services to disabled persons, or (iii) a person to whom a state is required to provide a free appropriate public education."

Both the Individual with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 may provide coverage for children with ADD. When the disability adversely affects educational performance, eligibility for special

education should be approached through the processes of IDEA. When the disability does not affect educational performance but does substantially limit one or more major life activities, eligibility should be approached through Section 504.

Students with attention deficit disorder (ADD) or emotional/behavioral difficulties may not meet the criteria for IDEA categories, such as learning disabilities, other health impaired, or emotionally disturbed. However, if their disorders or conditions “substantially limit” their ability to function at school, they are disabled within the means of Section 504 and must be provided with the accommodations and special services necessary to benefit from a free and appropriate public education.

There is a great deal being published and circulated about attention deficit disorder/attention deficit hyperactivity disorder (ADD/ADHD) and many parents seem to feel that their children have characteristics listed. It is advised that school officials document parental concerns as a referral and begin the evaluation process. Not all children who have ADD/ADHD are eligible for services under Section 504. The child’s ability to learn or behave in an appropriate manner, for example, must be “substantially limited.” A substantial limitation, therefore, serves as a barrier preventing equal access to a major life activity.

The determination of what services are needed must be made by a group of persons knowledgeable about the student. The group should review the nature of the disability, how it affects the student’s education, whether specialized services are needed, and if so, what those services are. The decisions about Section 504 eligibility and services must be documented in the student’s file and reviewed periodically by the building administrator.

Procedures and Requirements

A. Referral:

A referral for possible 504 eligibility must be initiated (by a parent or professional of the school district) if there is a reason to believe that the student has a “physical or mental impairment that substantially limits one or more major life activities” (example: learning). Pertinent information relative to the referral should be documented.

The Section 504 Referral Form or Building Based Team Referral Form, along with pre-referral documentation, should be completed and forwarded to the building compliance officer (i.e., principal or designee) for action.

The compliance officer (principal) will do the following:

- a. discuss the referral with the general education teacher(s).
- b. notify the parent in writing of the referral and the time lines to be followed and request a meeting (refer to Parent Letter), send a copy of the Section 504 Referral Form and schedule a time to meet).

Once a referral is initiated, it is advised that the school corporation follow the time lines established by the state for special education and complete the evaluation process within forty (40) school days.

B. Parent Meetings:

- a. The parents or guardians will be contacted (in verbal and written form) to attend a meeting with the building principal to discuss the 504 referral. (Parents or guardians must be notified, but there is no requirement that this be done in writing; however, it is best practice to do so.)
- b. Every attempt to contact the parent for purposes of attending this meeting will be documented and attached to the “referral” form
- c. The reason for the referral will be explained.
- d. A determination will be made whether or not to evaluate the student.
- e. The evaluation procedures that will be employed (if necessary) will be detailed.
- f. Written permission to evaluate the child will be sought (if appropriate). Parent Notice/Permission for 504 Evaluation.
- g. The Section 504 “Notice of Conference” will be initiated to determine closure to the referral.
- h. A request may be made to seek a medical opinion from the students’ physician. Refer to:
 - Physician’s letter re: ADHD concerns

- Physician’s letter re: medical concerns
 - Physician’s questionnaire for ADHD concerns
 - Physician’s questionnaire for medical concerns
- i. Release of Information Form from parent(s) will be obtained so that privately held data (e.g., medical) can be obtained as part of the evaluation.
 - j. A written copy of the Notice of Parent/Student Rights in identification, evaluation and placement of disabled persons will be offered and verbally explained.
 - k. A request may be made to seek information from school staff and/or parents. Refer to:
 - School staff questionnaire for ADHD concerns
 - School staff questionnaire for medical concerns
 - Parent questionnaire for ADHD concerns

Evaluation and Data Gathering:

An evaluation is required in every instance where it is believed that a student may be disabled under Section 504. A person with authority to commit the district will meet with the parents and others, if needed, to review the documents received and to carefully consider them.

Whenever the school corporation requests diagnostic information, the school is responsible for payment.

The requirements to determine 504 eligibility are not nearly as strict as that under the IDEA. It is important, however, that the school corporation must do whatever possible to “justify” the determination. The school corporation’s recommendation can always be challenged by the parents.

Classroom teachers can provide formal or informal evaluation data. The school psychologist may be contacted to review the academic and/or psychometric data with evaluation team.

The school nurse shall be included in all referrals relating to medical concerns. Related services staff (i.e., speech, occupational and/or physical therapists) may be called upon for consultation.

Speech therapy is considered special education but occupational and physical therapy (not special education services) may be provided through Section 504 whether or not a student is eligible for special education.

The Section 504 “Notice of Conference” will be completed.

C. Conference:

Within forty (40) instructional days of the initiation of the referral, the building principal will convene a Section 504 conference. The purpose of this conference is to:

- a. Discuss the information gathered and determine:
 1. if an educational evaluation is needed to determine the need for special education,
 2. whether the student referred is disabled (i.e., has a physical or mental impairment that substantially limits one or more major life activities),
 3. appropriate placement.

The Section 504 conference may be held together with an Article 7 case conference. Determination as to eligibility under Article 7 and Section 504 may be made at the same meeting, but if it is determined that the student is not eligible under Article 7, a separate determination should be made regarding Section 504. (A student who is disabled under Article 7 is always considered disabled under Section 504 and the Article 7 requirements prevail.)

- a. Reasonable Accommodation– Develop and implement a documented plan (if disabled) and determine any reasonable accommodations that may be appropriate.
- b. Notice of Parent/Student Rights– Offer a written copy and explain verbally the “Student/Parent Rights and Options”.
- c. Section 504 conference committee report– Document the meeting on appropriate form.

The Section 504 conference committee could include the following:

- a. Building principal (or designee)
- b. General Education teacher(s)
- c. Assessment team members (or representatives)
- d. School nurse (medical issues)
- e. Parent/guardian
- f. Student, if appropriate
- g. Other representatives having experience with, or information regarding the referred student.
- h. The parents may bring anyone they wish to the conference.

The conference chairperson has the following responsibilities:

- a. Gather information.
- b. Organize the presentation of the data.
- c. Coordinate the deliberation of Section 504 eligibility:
 - Does the student have a physical or mental impairment?
 - Does that impairment “substantially limit one or more major life activities”?
 - Does the team have the data to justify a determination?
 - Is the student a qualified individual with disabilities within the meaning of Section 504?

This deliberation is a local decision. Insure, however, that all four points were considered.

- a. Determine the needs and program services for the student.
- b. Develop the Alternative Learning Plan (ALP). Although not required, it is recommended that the school corporation gain written parent permission to proceed. The school can proceed without permission.

D. Annual Review:

An annual review may be conducted (though not required) prior to the start of each school year for each student receiving services as per Section 504. The purpose of this conference is to review and revise, if necessary, the current general education class placement and Alternative Learning Plan (ALP).

Document the annual review on the same “Section 504 conference committee report”. NOTE: Section 504 does not require an annual review. It does require that the student’s needs be met and an evaluation be done prior to any significant change of placement.

E. Re-Evaluation:

Students receiving services through Section 504 will be re-evaluated periodically. It is recommended that a re-evaluation be conducted at least every three years. Students referred for behavior and/or disciplinary reasons may need a causal Relation Conference.

It is not required that a re-evaluation take place on an annual basis or even every three years. What is required is that the student’s needs be re-evaluated periodically.

Due Process:

Provide an opportunity for an impartial Due Process Hearing and a Review (Appeal) for the purpose of dispute resolution.

Grievance Procedures:

Provide a Grievance Procedure to resolve complaints of discrimination on the basis of disability (disabilities). Refer to the basis or disability (disabilities). Refer to the compliance plan for the procedure.

Section 504 building contacts are the building principals.