

Northridge Local School District

Section 504 Procedures Handbook



Revised March 9, 2020

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INTRODUCTION

Section 504 of the Rehabilitation Act of 1973 (Section 504) is a federal anti-discrimination law that protects the rights of students with disabilities in programs and activities that receive federal financial assistance from the U.S. Department of Education. The law prohibits federal recipients from discriminating against individuals because they are disabled. In accordance with the law as well as Board policies, the Board of Education expects all individuals to comply with the following:

1. No one discriminates against an individual in any program or activity because of their disability.
2. Facilities, programs and activities are made available to qualified persons with a disability.
3. Free appropriate public education at elementary and secondary levels, including nonacademic and extracurricular services and activities, are provided to qualified persons with a disability.
4. No one excludes any qualified person with a disability, solely on the basis of disability, from participation in any preschool education, day care, adult education or career-technical education program.
5. Each qualified person with a disability is provided with the same health, welfare and other social services that are provided to others.

Board Policies AC and ACB more fully describes the Board of Education's commitment to maintain an environment that is free from any form of unlawful harassment or discrimination, including harassment or discrimination based on disability.

A student receives protections under Section 504 if the student is determined to:

1. Have a physical or mental impairment which substantially limits one or more of such person's major life activities; or
2. Have a record of such impairment; or,
3. Be regarded as having such impairment.

Section 504 also requires Public School Districts to establish and implement a process for identification, evaluation and educational placement of students who, because of a disability, may need special education and/or related services.

As part of this process, the district is required to ensure that each qualified student with a disability within the district's jurisdiction is offered a free and appropriate education (FAPE) regardless of the nature or severity of the person's disability. Under Section 504, providing FAPE means providing regular and special education and related aids and services that are designed to meet individual educational needs of disabled students as adequately as the needs of nonhandicapped students are met at no charge to the student. The Board directs that all reasonable efforts be made to identify unserved students with disabilities in accordance with all applicable Board policy and procedures.

Section 504 records including medical documents shall be maintained confidentially in accordance with state and federal law and board policy. A copy of the relevant Section 504 documents will be maintained in the student's assigned building as well as in a central location at the special education office. Parents have the right to examine relevant records upon request and shall be provided access within a reasonable timeframe.

DEFINITIONS

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.

Current Users of Illegal Drugs: A student who is currently engaging in the illegal use of drugs does not receive protection under Section 504 when the district takes any disciplinary or other action related to the illegal drug use even if the student otherwise has a disability. Under section 504, the district may take disciplinary action to the same extent that such action may be taken against a nondisabled student. A student who is a former drug user participating in a drug rehabilitation program, however, may be eligible for Section 504 services and protection if the student otherwise meets that definition of an 'individual with a disability' as described above and is not currently engaging in the use of illegal drugs.

Episodic or In Remission Disabilities: An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

Free Appropriate Public Education (FAPE): providing regular and special education and related aids and services that are designed to meet individual educational needs of disabled students as adequately as the needs of nonhandicapped students are met at no charge to the student. FAPE is determined in adherence to these procedures.

Individual with a Disability: An individual with a disability is a person who has a physical or mental impairment which substantially limits one or more of such person's major life activities.

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, sleeping, learning and working. Major life activities also include standing, lifting, bending, reading, concentrating, thinking, writing, communicating, and interacting with others. The term also includes the operation of a major bodily function, including but not limited to functions of the immune system, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions.

This list is not exhaustive. An activity or function not found on the list may nonetheless be a major life activity.

Physical or Mental Impairment – examples of physical or mental impairment include:

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; genitourinary; hemic and lymphatic; skin; and endocrine; or
2. Any mental or psychological disorder such as cognitive impairment, organic brain syndrome, emotional or mental illness and specific learning disabilities.

Placement: regular and/or special educational program in which a student receives educational and/or related services.

Record of Impairment and Regarded as Having Impairment: Section 504 protects students from discrimination who have a record of impairment or who are regarded as impaired. Student is 'regarded as' having an impairment if the District perceives the student as impaired. 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.

Related Services: developmental, corrective, and other supportive services, including psychological, counseling and medical diagnostic services and transportation.

Section 504 Building Coordinator: The Section 504 Building Coordinator is the building principal or designee. The Building Coordinator provides assistance with and is responsible for overseeing compliance with the district's Section 504 process and procedures and coordinating assignment of the Section 504 team. The Section 504 Building Coordinators serve as the chairperson of the Section 504 meetings and may assist with scheduling meetings and completing forms and documents. They will consult with the District Coordinator and notify the District Coordinator upon receipt of a grievance or complaint. The Building Coordinators are as follows:

For grades Kindergarten through five:

Tammy Duckro
2011 Timber Lane
Dayton, Ohio 45414
Phone: (937) 278-5885

For grades six through twelve:

Sarah Wallace
2011 Timber Lane
Dayton, Ohio 45414
Phone: (937) 278-5885

Section 504 District Coordinator: The Section 504 District Coordinator is the person who provides guidance to the district regarding compliance with legal requirements specified under Section 504. The Section 504 District Coordinator also investigates and makes recommendations to the Superintendent regarding a resolution of grievances or complaints in accordance with Board Policy. Contact information for the Section 504 District Coordinator is as follows:

Pamela Thompson
Director of Special Education
2011 Timber Lane
Dayton, Ohio 45414
Phone: (937) 278-5885

Substantially Limits: A student who has a physical or mental impairment that substantially limits a major life activity may be found to have a disability under Section 504. This determination is made on a case-by-case basis.

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), and prosthetics.

Temporary Impairment: a student with a temporary impairment is not defined as an individual with a disability under Section 504 unless the severity of the impairment is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The district considers on a case-by-case basis both the duration and extent of the impairment to determine if it constitutes a disability.

SECTION 504 PROCEDURES

The Section 504 Process consists of the following steps.

1. **Child Find, Identification and Referral Procedures:** The District has an affirmative obligation to identify and locate every qualified student with a disability residing in the District's school boundaries who is not receiving a public education. The obligation extends to students attending private schools, children residing in hospitals, and homeless children. The District also has an obligation to evaluate students who attend school at Northridge. Students who may qualify as individuals with disabilities under Section 504 may be referred for evaluation by parents/guardians, other school employees, community agencies or the students themselves.

When a concern arises regarding a student's eligibility under Section 504 (i.e. the student has a physical or mental impairment that substantially limits a major life activity), the referring staff member or parent completes and submits the Referral For Suspected 504 Disability to the Section 504 Building Coordinator. It is recommended that relevant documentation be included with the referral. Forms shall be made available at the building office as well as on the district's website. A parent may request assistance in completing the form. A staff member who suspects a disability is required to complete the form.

Corresponding forms: Section 504 Referral Form, Section 504 Prior Written Notice to Parents, and Section 504 Procedural Safeguards.

2. **Assignment of Section 504 Team Members:** For each referral, the Building Coordinator will coordinate assignment of a Section 504 team. The team will be composed of individuals knowledgeable about the student who understand the meaning of the evaluation data and are familiar with the options with respect to accommodations, services and placement. This may include the Section 504 Building Coordinator, principal, assistant principal, a general education teacher, a special education teacher, the parent/guardian, the student (as deemed appropriate), school nurse, school counselor, or any other Northridge employee or contracted service provider with relevant knowledge of the student.
3. **Initial Evaluation:** The Section 504 initial evaluation includes a thorough review of the student's relevant information. During the evaluation, the District shall:
 - A. Draw upon information from a variety of sources;
 - B. Ensure all evaluation data is documented and carefully considered; and
 - C. Ensure decisions are made by a group of people, including those knowledgeable about the child, the meaning of evaluation data and placement options.

The Section 504 team will schedule a meeting to develop an evaluation plan and obtain parent consent. The Section 504 Parent Invitation and prior written notice will be sent to the parent in advance. The 504 team will provide a copy of the form titled Section 504 Notification of Parent/Student Rights in Identification, Evaluation, and Placement of Individuals with Disabilities and will review procedural safeguards and timelines with the parent at the meeting. The team will obtain parent consent for the evaluation. Evaluation measures and assessments will be selected at the meeting utilizing the following parameters:

- A. Tests and other evaluation materials are validated for the specific purpose for which they are used and are appropriately administered by trained personnel.
- B. Tests and other evaluation materials include those tailored to evaluate the specific areas of educational need and not merely those designed to provide a single intelligence quotient.
- C. Tests are selected and administered to ensure the results accurately reflect the student's achievement, aptitude or other factor being measure rather than the student's disability (except where those are the factors being measured).

The District must obtain signed parent consent for a Section 504 evaluation prior to the evaluation occurring. A parent has a right to refuse to provide consent for evaluation or for services. In these circumstances, the district has the option, but not the obligation, to pursue the Section 504 evaluation by using due process.

The District will conduct an evaluation in a timely manner, generally within 60 days from the date that the district received the Section 504 Referral. If direct individual assessments are requested from staff, the Permission to Complete Assessment Form will be completed and signed by the parent/guardian prior to the initiation of the individual direct assessments.

Corresponding Forms: Section 504 Parent Invitation to a Conference, Section 504 Prior Written Notice to Parents, and Section 504 Notification of Parent/Student Rights, Section Parent Consent for Evaluation, Section 504 Evaluation.

4. **Eligibility Determination:** Following the completion of evaluation, the Section 504 team will convene to review the information and determine eligibility. The nature and extent of the information needed to make a Section 504 eligibility decision is determined on a case-by-case basis by the Section 504 team.

The Section 504 Team will make the following determinations of eligibility and need for a Section 504 plan using the Section 504 Disability Determination Form to determine the following:

- A. **Student is 504 Eligible and Requires Section 504 Plan** - The student **has** an impairment which is substantially limiting a major life activity and **is eligible**

for Section 504 protections. Further, the team determines that accommodations and modifications **are necessary** for the student to have an opportunity commensurate with non-disabled students of approximately the same age in the district.

- B. **Student is 504 Eligible But Does Not Require a Plan** The student **has** an impairment which is substantially limiting a major life activity and **is eligible for Section 504 protections.** The team determines that accommodations and modifications **are not necessary** for the student to have an opportunity commensurate with non-disabled students of approximately the same age in the district at this time. (For example, a medical plan may be in place, however, classroom modifications and accommodations are not required at this time.)
- C. **Student is not 504 Eligible.** The student **does not** have an impairment which is substantially limiting a major life activity and **is not eligible for Section 504 protections** at this time. The team determines that accommodations and modifications **are not necessary** for the student to have an opportunity commensurate with non-disabled students of approximately the same age in the district.

Note: Prior to any meeting of the Section 504 team regarding their child, the student's parents/guardians will be provided written notice of the date using the Section 504 Parent Invitation Form. No final eligibility determination will be made by the District without first inviting the parent or guardians to participate in a meeting concerning such a determination. Procedural safeguards will be provided to the parent at the initial meeting and upon request.

Corresponding Forms: Section 504 Evaluation (See Section 2)

5. **Development of Section 504 Plan:** Within a reasonable time following eligibility determination that a student requires a Section 504 Plan, Parents/Guardians will be invited to participate in a meeting. Generally the meeting will be scheduled within thirty (30) days. At the meeting, the team will develop a written Section 504 plan. The Section 504 team shall sign the Section 504 Plan. The Student's Section 504 plan will include a description of the student's disability as well as reasonable accommodations, modifications and/or related services and supports determined appropriate by the team.

Prior to implementation, a copy of the Section 504 Plan shall be provided to relevant staff members and the parents/guardians. Prior written notice to parents/guardians will indicate the School District's intent to implement the plan.

Corresponding Forms: Section 504 Parent Invitation to a Conference, Section 504 Plan, Section 504 Prior Written Notice to Parents

6. **Placement:** Placement refers to regular and/or special educational program in which a student receives educational and/or related services. The Section 504 team is responsible for determining which placement is appropriate to implement the student's Section 504 plan. Students who are eligible for services under Section 504 will be educated, to the maximum extent appropriate, with students who are not disabled.
7. **Section 504 Plan Annual Review:** The student's Section 504 plan will be reviewed at least annually by the Section 504 team to determine continued needs or accommodations. The Section 504 Building Coordinator will schedule an annual review in accordance with Board procedures. Parents will be invited to participate in the meeting.

A Section 504 team meeting may be convened at any time to review the plan and determine whether changes are necessary and appropriate. Staff, the student or parents/guardians can initiate a meeting to discuss concerns and review any part of the student's plan, including placement, accommodations, and/or services.

Corresponding Forms: Section 504 Parent Invitation to a Conference, 504 Notification of Parent/Student Rights, Section 504 Plan, Section 504 Prior Written Notice to Parents, 504 Notification of Parent/Student Rights

8. **Section 504 Reevaluation:** For students identified with a disability under Section 504, periodic reevaluation is required and shall be completed in accordance with the following:
 - A. A reevaluation will be completed at least every three years unless the district and parent agree reevaluation is unnecessary.
 - B. A reevaluation will be conducted prior to any significant change in placement.
 - C. A student's parent, administrator or teacher may request a reevaluation occur more frequently than every three years.
 - D. When a reevaluation is needed, the parent will be sent notification in advance and will be invited to attend a planning meeting.
 - E. The District will take reasonable efforts to obtain parent consent before conducting a reevaluation. Consent is not required for Reevaluations that are a review of records.
 - F. The Section 504 reevaluation will be completed in a manner consistent with the parameters described for the district's initial evaluation.

Corresponding Forms: Section 504 Parent Invitation to a Conference, Section 504 Prior Written Notice to Parents, and Section 504 Notification of parent/Student Rights, Section Parent Consent for Evaluation (recommended but not required for reevaluations), Section 504 Evaluation.

9. **Section 504 Transfer Students:** When a student with a current Section 504 plan enrolls in the District, the following steps will be taken. The Section 504 Building Coordinator will assign a Section 504 team and convene a meeting to review the

Section 504 plan. Parents will be invited to attend the meeting. Parents will be provided with the Notice of Procedural Safeguards at that meeting.

At the meeting, the Section 504 team will review the Section 504 plan and any supporting documentation provided by the previous district. If the Section 504 team agrees with the Section 504 Plan, the District will implement the plan as written. Prior written notice will be sent documenting agreement with the plan.

If the Section 504 team disagrees with the Section 504 plan, the school will offer to conduct an evaluation to determine eligibility. If the team determines that the student is eligible for a Section 504 plan after completing the evaluation, the team will convene a meeting and develop a new plan. The Section 504 plan that was received from the previous school will be followed until the Section 504 evaluation and subsequent Section 504 plan is written. If the student is determined not eligible for a Section 504 Plan following the evaluation, the Section 504 team will document the determination on the Section 504 eligibility determination form.

Corresponding Forms: When transferring the Section 504 Plan. Section 504 Parent Invitation to a Conference, Section 504 Prior Written Notice to Parents, and Section 504 Notification of Parent/Student Rights.

When Rejecting the Section 504 Plan and Conducting a Section 504 Reevaluation: Section 504 Parent Invitation to a Conference, Section 504 Prior Written Notice to Parents, Section 504 Notification of Parent/Student Rights, Section Parent Consent for Evaluation (recommended but not required for reevaluations), Section 504 Evaluation.

10. **Procedural Safeguards:** The parent/guardian will be notified in writing of any district decision concerning the identification, evaluation or educational placement of the student.

Corresponding Forms: Section 504 Prior Written Notice

11. **Discipline:** Students who are eligible under Section 504 have certain additional protections when charged with a violation of the Code of Student Conduct, which may result in a suspension or expulsion. A manifestation determination review for a Section 504 disabled student is conducted when:
 - A. The suspension or expulsion will be for more than ten (10) consecutive school days. A series of suspensions that total more than ten (10) school days in a school year that creates a pattern which constitutes a change in placement as determined on a case-by-case basis.
 - B. The Office for Civil Rights has identified some of the key factors in determining the existence of a pattern of exclusion; these include the length of each suspension, the proximity of one suspension to another, the similar or

dissimilar nature of the behavior, and the total amount of time the student is excluded from school.

In order to determine if the behavior resulted in a disciplinary action was caused by, or had a direct and substantial relationship to the child's disability, relevant members of the child's Section 504 team and other qualified personnel will conduct a manifestation determination review. The Manifestation Determination Form will be completed at the meeting to document the team's decision. If the behavior is a manifestation of the child's disability, the child returns to his/her current placement.

If the 504 team determines the behavior is NOT related to the disability, the student will receive the same sanctions as nondisabled students, consistent with the school district Code of Student Conduct and Board policy. The provisions of FAPE do not apply during the period of discipline or removal from school.

Section 504 allows a student to be disciplined, without going through the manifestation determination review process, where the student is charged with and found to be currently engaging in the illegal use of drugs or alcohol, in violation of the School Code of Conduct.

Corresponding Forms: Section 504 Parent Invitation to a Conference, Section 504 Prior Written Notice to Parents, and Section 504 Notification to Parent/Student Rights, Section 504 Manifestation Determination Review.

12. The District periodically conducts a self-evaluation of the school facilities, programs, and policies to ensure that discrimination is not taking place. This study may be conducted with help from interested persons, including persons with disabilities.

GRIEVANCE PROCEDURE AND IMPARTIAL DUE PROCESS HEARINGS

It is the policy of the Northridge Local School District Board of Education not to discriminate on the basis of disability. The District has adopted an internal grievance procedure providing for prompt, impartial and equitable resolution of complaints filed by students, employees, parents/guardians and third parties alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). See, Board Policy JC. Section 504 prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance. The Law and Regulations may be examined in the office of the Section 504 District Coordinator, who has been designated to coordinate the efforts of the District to comply with Section 504. The Section 504 District Coordinator at Northridge is:

Pamela Thompson
Director of Special Education
2011 Timber Lane
Dayton, Ohio 45414
Phone: (937) 278-5885

A grievance may be filed at any time in accordance with this procedure.

The District will make appropriate arrangements to ensure that disabled persons are provided other accommodations, if needed, to participate in this grievance process. Such arrangements may include, but are not limited to, providing interpreters for the deaf, providing taped cassettes of material for the blind, or assuring a barrier-free location for the proceedings. The Section 504 District Coordinator will be responsible for such arrangements.

The District will take steps to correct discriminatory acts and effects as appropriate, and will also take steps to prevent recurrence of disability-based discrimination and harassment.

Board policy strictly prohibits retaliation related to a complaint of discrimination or harassment. Retaliation is prohibited against anyone who files a complaint; participates in an investigation, proceeding, or hearing regarding harassment; or otherwise opposes language or conduct that is perceived as violating the anti-discrimination and harassment policy. This prohibition applies regardless of the findings in the underlying complaint.

Step 1. Grievances must be submitted to the Section 504 District Coordinator within thirty (30) days of the date the person filing the grievance becomes aware of the alleged discriminatory act. **Staff are expected to report any known or reasonably suspected acts of discrimination or harassment within forty-eight (48) hours.** A complaint must be in writing, containing the name and address of the person filing it. The complaint must state the problem(s) or action(s) alleged to be discriminatory and the remedy or relief sought.

Step 2. The Section 504 District Coordinator will investigate the complaint. The investigation will be thorough, affording all interested persons an opportunity to submit a list of potential witnesses and evidence relevant to the complaint. The Section 504 District Coordinator will maintain the files and records of the District relating to such grievances.

Step 3. The Section 504 District Coordinator will issue a written decision to the complainant within thirty (30) calendar days.

Step 4. If the complainant wishes to appeal the decision of the Section 504 District Coordinator, he/she may submit a signed statement of appeal to the Superintendent within fifteen (15) calendar days after receipt of the Coordinator's response. The Superintendent shall review the Coordinator's decision as well as any documentation filed with the appeal, and will respond in writing to the complainant appeal within thirty (30) calendar days.

Exceptions may be made to any of the timelines listed in the grievance procedure for good cause on a case by case basis.

The complainant may file a complaint with the Office for Civil Rights (OCR) at any time before, during, or after the local grievance procedures. The contact information for the regional office is as follows: Office for Civil Rights Cleveland, Ohio US Department of Education 600 Superior Avenue East, Suite 750 Cleveland, Ohio 44114

Impartial Due Process Hearings

Parents or legal guardians who disagree with the identification, evaluation, placement or provision of a free appropriate public education for a student with a disability have the right to request an impartial due process hearing. A parent/guardian has the right to file for a due process hearing at any time and is not required to seek mediation or file a grievance or complaint before requesting a due process hearing.

Request for a Section 504 due process hearing must be made in writing to the Superintendent. Upon receipt of such a request, the Superintendent/designee will select a hearing officer. A hearing officer is prohibited from having a personal or professional interest which would conflict with his or her objectivity in the hearing.

Any party to a hearing has the right to be: accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities.

A written or electronic verbatim record of the hearing will be made and upon request will be provided in the parent's native language.

Timeline for Due Process Hearing: The School District will adhere to the following timeframes in the event of a request for a due process hearing:

- A hearing will be scheduled not more than sixty (60) calendar days following receipt of a written request from the parent. The parties in consultation with the hearing officer may mutually agree to reasonable extensions.
- The Hearing Officer will, not later than thirty (30) calendar days after the hearing, reach a final decision regarding the matter and send a written copy of the decision to each party.
- In the absence of an appeal, the District will be in compliance with any decision rendered by the Hearing Officer within thirty (30) days after the District's receipt of the decision.

If the complainant wishes to appeal the decision of the Hearing Officer, he/she may submit a signed statement of appeal to the Superintendent within fifteen (15) calendar days after receipt of the Hearing Officer's decision. The Superintendent will appoint a Hearing Review Officer within thirty (30) days of receipt of the appeal. The Hearing Review Officer is prohibited from having a personal or professional interest which would conflict with his or her objectivity in the hearing.

The Hearing Review Officer will review the record, including the transcript and decision of the Hearing officer, and will issue a final written decision to both parties within thirty (30) days. The District will be in compliance with any decision rendered by the Hearing Review Officer within thirty (30) days after the District's receipt of the decision.

LIST OF SECTION 504 FORMS

- Form: Section 504 Referral (Referral for Suspected Section 504 Disability)
- Form: Parent Invitation to a Section 504 Meeting
- Form: Section 504 Notification of Parent/Student Rights In Identification, Evaluation, Educational Placement of Individuals with Disabilities
- Form: Section 504 Prior Written Notice
- Form: Parent Permission for Section 504 Evaluation
- Form: Section 504 Evaluation
- Form: Section 504 Disability Determination
- Form: Section 504 Accommodation Plan
- Form: Section 504 Accommodation Documentation Form
- Form: Parental Authorization for Release of Information
- Form: Manifestation Determination Review for Section 504 Plans
- Form: Section 504 Grievance/Complaint Form
- Form: Section 504 Due Process Hearing Request Form
- Form: Communication Log (optional)
- Form: Permission for Educational Assessment
- Form: Record Request