

Lower Merion School District

ADMINISTRATIVE REGULATIONS

Administrative Regulation No.: 114-2  
Section: PUPILS  
Title: SECTION 504 COMPLIANCE  
Date Last Revised: 6/4/14

**R114-2 INDIVIDUALIZED STUDENT SUPPORTS AND SERVICES  
SECTION 504**

**I. Introduction**

A. Authority

Chapter 15 of the Pennsylvania Code (hereinafter referred to as “Chapter 15”) addresses a school district’s responsibility to comply with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations (hereinafter collectively referred to as “Section 504”), and provides for the evaluation and identification of handicapped students (hereinafter referred to as “student(s) with a handicap”). School districts are required to provide the related aids, services, or accommodations needed to ensure that each otherwise qualified student with a handicap who has a physical, mental or health impairment is afforded an equal opportunity to participate in and obtain benefits from the school program and extracurricular activities to the maximum extent appropriate to that student’s ability. These aids, services or accommodations must be designed to meet the student with a handicap’s needs as adequately as the needs of non-disabled students. The Lower Merion School District (hereinafter referred to as the “District”) hereby acknowledges its responsibilities under Section 504 and Chapter 15.

B. Definitions

**Student with a Handicap** – As defined in federal law and regulation, a “student with a handicap” is a student who meets the following conditions: (1) the student is of school age; (2) the student has a physical or mental impairment which substantially limits one or more major life activities, without consideration of the ameliorating effects of any mitigating measures used by the student; and, (3) the student is not eligible for special education services as defined by the IDIEA.

**ADA** - Americans With Disabilities Act of 1990.

**Chapter 15** - Pennsylvania Board of Education Regulations which implement the requirements of Section 504. Chapter 15 provides for the evaluation of students believed to be students with handicaps, the development and implementation of a service agreement for those students found to be students with handicaps, and procedural safeguards, including provisions for an impartial due process hearing when a conflict arises between the District and a parent/guardian concerning the evaluation or provision of services.

**Section 504** - Section 504 of the Rehabilitation Act of 1973.

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**Handicap** - means, with respect to a student, a physical or mental impairment that substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment.

**Physical or Mental Impairment** - 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; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

**Substantially Limits** - means that the student is unable to perform a major life activity that the average student of approximately the same age can perform or that the student is significantly restricted as to the condition, manner or duration under which a particular life activity is performed as compared to the average student of approximately the same age.

**Record Of Such An Impairment** - the student has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

**Regarded As Having Such An Impairment** - the student establishes that s/he has been subjected to an action prohibited under law because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of six (6) months or less.

**Episodic Impairment** - An impairment that is episodic or in remission is a handicap if it would substantially limit a major life activity when active.

**Temporary Impairment** - does not constitute a handicap unless its severity is such that it results in a substantial limitation of one or more major life activities for an expected duration of six (6) months or more.

**Major Bodily Function** - a major life activity includes the operation of a major bodily function, including the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

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**Major Life Activities** - includes, but is not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working.

**Mitigating Measures** - includes but is not limited to the use of medications; medical supplies, equipment or appliances; low-vision devices; prosthetics (including limbs and devices); hearing aids and cochlear implants or other implantable hearing devices; mobility devices; oxygen therapy equipment and supplies; assistive technology; reasonable accommodations, auxiliary aids or services; or learned behavioral or adaptive neurological modifications.

**Low-Vision Devices** - devices that magnify, enhance, or otherwise augment a visual image.

**Ordinary Eyeglasses or Contact Lenses** - lenses that are intended to fully correct visual acuity or eliminate refractive error.

**Achievement Team** - Achievement Teams are comprised of representative members of the professional and administrative staff of the District with the possible inclusion of teachers, school psychologists, school counselors, social workers, nurses, reading and math specialists and other specialists identified by each building's lead administrator.

**Section 504 Service Agreement (Service Agreement)** - an individualized plan for a qualified student with a handicap which sets forth the specific related aids, services, or accommodations needed by the student, which will be implemented in school, in transit to and from school, and in all programs and procedures, so that the student has equal access to the benefits of the District's educational programs, nonacademic services, and extracurricular activities.

**Section 504 Team** - a group of individuals who are knowledgeable about the student, the meaning of the evaluation data and the placement options for the student. This group of individuals should include the student's parents/guardians and could include, as appropriate, documentation or input from classroom teachers, counselors, school nurses, psychologists, outside care providers and the student's parents/guardians.

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#### II. Identification and Evaluation

##### A. School District Initiated

1. Any school staff member may refer a student to the building Achievement Team for consideration for evaluation under Section 504 and Chapter 15. The referring staff member will indicate that it is believed that the student should be identified as a student with a handicap, should no longer be identified as a student with a handicap, or requires a change in or modification of the current Service Agreement. For students attending one of the District's regular schools, this referral will be directed first to the building principal who will review it and then forward it to the building Achievement Team for consideration. For students not attending their regular school, this form will be directed to the District Section 504 Coordinator who will convene a Section 504 Team meeting. In these cases, the Section 504 Team will be composed of persons knowledgeable of the student's school history and individual needs, has an understanding of the evaluation procedures and the meaning of the evaluation data, and can suggest appropriate options for the student.
2. The Achievement Team will consider the referral based upon the student's existing records, including academic, social, behavioral, and health records, and make a determination as to whether an evaluation for provision of services under this procedure is appropriate.
3. If it is determined by the Achievement Team that an evaluation for provision of services is not appropriate, the Achievement Team will nonetheless provide recommendations for helping the student in the area of concern.
4. If it is determined by the Achievement Team that an evaluation for provision of services is appropriate, written notice will be sent to the parents/guardians and will include:
  - a. a statement that the District believes the student may be a child with a handicap;
  - b. the basis for this belief;
  - c. a statement of the parents/guardians' right to meet a school official to discuss the issues;
  - d. the specific aids, services, or accommodations proposed;

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- e. a requirement that the parent/guardian must agree to the student's identification as a student with a handicap and sign the Service Agreement before the District will provide the proposed aids, services or accommodations;
  - f. a statement that the District will not terminate or modify the agreement without parent/guardian consent, pending completion of procedures in this Administrative Regulation; and
  - g. a copy of the procedural safeguards available to students and their parents/guardians.
5. If the parent/guardian gives the District permission to proceed with the evaluation, A Section 504 Team will be convened to evaluate the student and, if found appropriate, meet to develop a Service Agreement. If the parent/guardian does not attend the meeting, the Service Agreement should be developed based on all available information, signed by the building principal, and mailed home to the parent/guardian for approval. Aids, services, or accommodations can begin upon the District's receipt of the properly executed Service Agreement.
6. If the parent/guardian does not give permission to proceed with the evaluation or does not respond to the notice, the Achievement Team will determine whether there is sufficient information available to support the identification of the student as a student with a handicap and, if so, will develop a Service Agreement offering aids, services, or accommodations. This Service Agreement should be mailed home to the parent/guardian along with the Parents/Guardians' Procedural Safeguards under cover letter which further explains that the offered aids, services or accommodations will not be implemented unless the parent/guardian approves.
7. If the parent/guardian does not approve the District's attempts to evaluate the student or does not approve the District's attempts to begin the student's Service Agreement, the District may request an informal conference with the parent/guardian or seek an impartial due process hearing to resolve the issue.

#### B. Parent/Guardian Initiated

1. Parents/guardians may initiate an evaluation for provision of services to begin an existing Service Agreement by written request to the building principal or to the District 504 Coordinator. This written request should include all relevant medical

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records and other pertinent information and shall indicate that the parent/guardian believes the student should be identified as a student with a handicap.

The written request should also state:

- a. the specific reasons the parent/guardian believes the child is a student with a handicap; and
  - b. the specific related aids, services, or accommodations the parent/guardian believes the student needs.
2. The District shall respond in writing to the parent/guardian's written request for evaluation and services within 14 school days of receipt of the written request. This response shall be in the parent/guardian's native language or mode of communication and shall state:
- a. whether the parent/guardian's request or a portion of the parent/guardian's request is being granted or denied;
  - b. the parent/guardian's right to meet with a school official to discuss the issues;
  - c. the procedural safeguards available to students and their parents/guardians under these Administrative Regulations;
  - d. the parent/guardian's right to sue in federal court under Section 504; and
  - e. the District's request for additional records, if appropriate.

### III. Service Agreements

#### A. Document Requirements

1. If, after convening a Section 504 Team to evaluate the student and propose a Service Agreement for the student as a student with a handicap, the parent/guardian and District agree as to what related aids, services, or accommodations should be provided to the student with a handicap, the parent/guardian and District shall enter into a Service Agreement, which:
  - a. shall be executed by a District representative and a parent/guardian;
  - b. shall set forth the specific aids, services, or accommodations to be provided;

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- c. shall specify the dates to begin and discontinue the Service Agreement; and
  - d. shall specify emergency procedures, if appropriate.
2. The Service Agreement may also include:
- a. the dates of specific evaluations given;
  - b. a statement that all parties recognize the student as being a student with a handicap;
  - c. a statement identifying the impairment;
  - d. a statement of the extent to which the impairment substantially limits access to school, learning, extracurricular activities, or other aspect of the educational program;
  - e. the goals and objectives which the aids, services, or accommodations intend to address; and
  - f. the location where the aids, services or accommodations will be provided.

The statements, dates, and additional information listed in section III(2)(a) through (f) above must be included in the Service Agreement if the aids, services, or accommodations offered are to be provided by anyone not a District employee or are to be offered in any location not the student's regular school. If this is the case, the building principal and the Section 504 Team should work cooperatively with the District 504 Coordinator to plan and implement an appropriate Service Agreement.

3. If the parent/guardian and District cannot agree as to the related aids, services, or accommodations that should be provided to the student with a handicap, either party may invoke the provisions of procedural safeguard system.
- B. Service Agreement Renewal, Transition and Expiration
1. The Section 504 Team must convene, prior to the expiration of the Service Agreement, a meeting to determine if aids, services, or accommodations should be terminated or renewed with appropriate changes or modifications. The Section 504 Team should use all available information to make the determination as to

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whether to: (a) renew the Service Agreement with the appropriate modifications or changes, or, (b) not renew the Service Agreement.

2. If the Section 504 Team agrees to renew the Service Agreement and that no significant or only insignificant changes or modifications are required, the Section 504 Team must revise the Service Agreement to reflect the changes or modifications proposed.
3. If the Section 504 Team believes that the Service Agreement should not be renewed or that the student should no longer be identified as a student with a handicap, the Section 504 Team shall document whether a re-evaluation is appropriate and, after obtaining the parent/guardian's permission, conduct a re-evaluation. If the Section 504 Team does not believe a re-evaluation is necessary prior to making a determination as to whether the Service Agreement should not be renewed or whether the student should continue to be identified as a student with a handicap, the Section 504 Team must document why they believe an evaluation is not appropriate.
4. If the parent/guardian is unavailable to attend the meeting in person, the parent/guardian may attend via telephone conference or other electronic means. The school-based team should endeavor to include the parents/guardians in the meeting; however, if the parents/guardians are unable to attend and the school-based team has made reasonable attempts to include them, the Section 504 Team may make a determination.
5. In all cases, the Section 504 Team must provide the parent/guardian documentation evidencing Section 504 Team decisions and a copy of the procedural safeguards.
6. The Section 504 Team must convene, prior to a student moving from one school to another, a meeting to ensure proper transition and communication.

#### C. Reevaluation

The District will re-evaluate qualified students with disabilities every three (3) years or more frequently if conditions or the student's Service Agreement warrant, or if the student's parent/guardian or District staff request a re-evaluation. Findings will be documented in writing. The District will update assessments as needed to ensure that eligibility and accommodation planning is based on information that defines the student's handicap accurately and reflects the student's current needs.



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If the student is a student with a handicap and an existing Section 504 Agreement, and significant changes in eligibility, services or placement are proposed, the Section 504 Team will first evaluate current information and conduct a re-evaluation as necessary to support such changes or modifications.

#### IV. Procedural Safeguards System

##### A. Parent Request for Assistance

Parents/guardians may file a written request for assistance with the Pennsylvania Department of Education if they believe the District is not providing the related aids, services or accommodations outlined in the Service Agreement or the District has failed to comply with the procedures set forth in Chapter 15 or this Administrative Regulation and its corresponding Policy. The Pennsylvania Department of Education will investigate the complaint and respond to both the parent/guardian and the District within 60 days of receipt of the complaint.

##### B. Informal Conference

1. Parents/guardians may at any time file a written request with the District for an informal conference with respect to the evaluation of or provision of services for the student, or the student's needs for related aids, services, or accommodations. The District must convene a conference within 10 school days of receiving the request and make every effort to reach an amicable agreement.
2. At the informal conference, the Section 504 Team and the District 504 Coordinator, or his or her designee, will work cooperatively with the parent(s)/guardian(s) to review all available information, including parent/guardian and teacher observations, in an effort to reach an amicable agreement.

##### C. Formal Due Process Hearing

If the matters raised by the District or parent/guardian are not resolved at the informal conference, the District or parent/guardian may submit a request for a hearing before an impartial hearing officer.

If no issues under Chapter 14 (relating to special education services and programs) are raised in the hearing by the parent/guardian(s), District, or hearing officer, the hearing shall be governed by section 14.162(a) through (t) of Chapter 14, with the

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exception of section 14.162(q)(1), referring to the mandatory resolution session required under the IDEA.

**D. Stay Pending Judicial Appeals**

If, within 60 calendar days of the completion of the administrative due process proceedings under Chapter 15, an appeal or original jurisdiction action is filed in State or Federal Court, the administrative order shall be stayed pending the completion of the judicial proceedings, unless the parents/guardians and District agree otherwise.

**V. Confidentiality**

The District shall:

1. Protect the confidentiality of personally identifiable information regarding a student with a handicap;
2. Require parent/guardian consent before releasing personally identifiable information to unauthorized persons;
3. Provide access to educational records of the students to the parents/guardians or a representative of the parents/guardians; and
4. Comply with section 513(a) of the Family Education Rights and Privacy Act of 1974 (20 U.S.C.A. section 1232(g)) and 34 CFR Part 99 (relating to family education rights and privacy).