

Lakota Local School District

Section 504

Policy and Procedure Manual

August 2012

Introduction

The purpose of this manual is to inform the user about Section 504 general information; review the District's legal obligations to comply with regulations governing Section 504, the American's with Disabilities Act (ADA) of 1992, and the ADA Amendments Act of 2008; identify, evaluate, and provide a free appropriate public education (FAPE) to students with disabilities; and insure that procedural safeguards are available to students and parents whenever a complaint resolution process is needed. The District expects employees to be knowledgeable about District procedures governing Section 504 activities, grievance procedures for resolving Section 504 complaints, and parent and student rights.

The manual is broken into five sections:

- *Section 504 overview
- *Section 504 Compliance Process Flowchart
- *Implementation of Section 504 Requirements
- *Section 504 District Forms
- *Resource information for Section 504 Teams

Section 504 Overview

Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 has been present for many years. It is a civil rights statute aimed at preventing discrimination based on disability.

“Handicapped Individuals” will hereafter be referred to as “individuals with disabilities” in order to be consistent with current educational terminology.

Included in the U.S. Department of Education regulations for Section 504 is the requirement that students with disabilities be provided with a free appropriate public education (FAPE), regardless of the nature or severity of the student’s handicap. FAPE consists of the provision of regular or special education and related aids and services designed to meet the student’s individual needs as adequately as the needs of non-disabled students’ needs are met. These regulations require identification, evaluation, provision of appropriate services and procedural safeguards.

Impact of Section 504 on the School District

If a school district receives any federal financial assistance, all of their programs and activities are covered under Section 504 requirements.

Many aspects of the Section 504 regulation concerning FAPE parallel the requirements of the Individuals with Disabilities Education Act (IDEA, reauthorized 2004, IDIEA). However, in some respects the requirements of the laws are different. There may be some students who are not eligible for IDEA services, but who are deemed disabled under Section 504. Students who qualify for Section 504 but not IDEA, will be provided a 504 Accommodation Plan. Staff development workshops will assist school staff in following procedures and writing 504 Accommodation Plans for disabled students.

Due Process

The following Lakota Board Policies and Policy forms provide further information regarding the district’s nondiscrimination policies and grievance procedures. The following documents may be found online at <http://www2.lakotaonline.com/district/bdofed/bdpolicies/bdpolicies.html>. Copies are available upon request.

- Lakota Local School District Board Policy 1101 Nondiscrimination/Harassment
- Lakota Local School District Board Policy 1104 Nondiscrimination on Basis of Disability
- Lakota Local School District Board Policy 6505 Student Discrimination or Harassment Grievance Procedure
- Lakota Local School District Form 1101A Nondiscrimination and Racial/sexual Harassment Grievance Form

Conditions for Eligibility

Section 504 covers qualified students with disabilities who attend schools receiving Federal financial assistance. To be protected under Section 504, a student must be determined to:

- 1) Have a physical or mental impairment that substantially limits one or more major life activities. Major life activities include:
 - Caring for oneself
 - Performing manual tasks
 - Walking
 - Seeing
 - Hearing
 - Speaking
 - Breathing
 - Learning
 - Working
 - Eating
 - Sleeping
 - Standing
 - Lifting
 - Bending
 - Speaking
 - Reading
 - Concentrating
 - Thinking
 - Communicating
 - Operation of a major bodily function
- 2) Has a record of such impairment or
- 3) Is regarded as having such impairment.

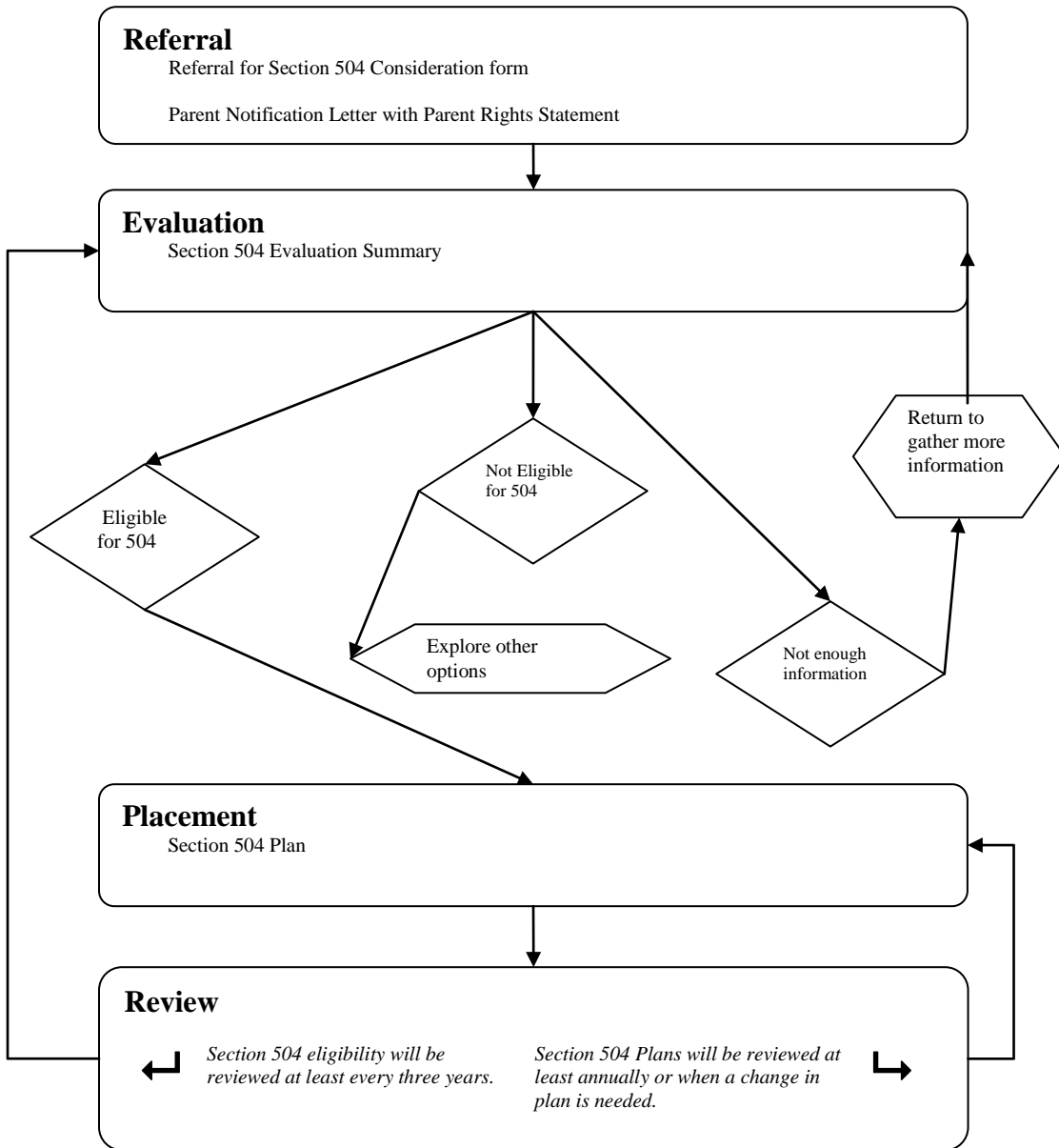
When a condition does not substantially limit a major life activity, the individual is not eligible for services under Section 504.

The Lakota Local School District Section 504 Coordinator

Special Services Executive Director
Lakota Central Office
5572 Princeton Road
Liberty Township, Ohio 45011

Phone 513-874-5505

Section 504 Compliance Process Flowchart



Implementation of Section 504 Requirements **Referral for Section 504 Consideration**

A student may be referred for Section 504 Consideration by a parent, student, teacher, administrator, counselor, etc. The 504 referral may also be the outcome of a building intervention team meeting.

The referral form should explain the basis of why a 504 Accommodation Plan is being considered. Existing documentation may be attached. Submit to the student's school to begin the process.

Case Manager

When a 504 referral is received by the school, a school staff member will be assigned to be the case manager. It is the case manager's responsibility to ensure that the 504 compliance process is followed. The case manager will be the school contact for the parent should there be any questions. Typically, the case manager will be building guidance counselor.

Notice and Consent for Evaluation and Parent Rights Statement

Upon receipt of a 504 referral, the case manager will send a Notice and Consent for Evaluation with Parent Rights Statement. The letter will inform the parents of the intent to evaluate, seek their consent to evaluate, and either invite them to an evaluation meeting or notify them that a meeting will be scheduled. The letter should be customized for each particular student.

Section 504 Evaluation Team

The section 504 evaluation team will typically consist of the following: Parent, Student (if appropriate), Case Manager, School Administrator, Counselor and Teacher. Other staff who are knowledgeable with the student, the disability, or the assessments used to determine eligibility may be included on the evaluation team (e.g. School Psychologist, Special Education Teacher, ESL Teacher, Occupational/Physical/Speech/language therapists, School Nurse, Gifted and Talented representative, instructional aide, etc).

Eligibility Determination Report

The evaluation team will complete the Eligibility Determination Report. In this determination report, the team will review the existing information, discuss the educational implications, and answer questions regarding eligibility.

Section 504 Eligibility Questions:

- a. Is there a documented physical or mental impairment?
- b. Does the impairment substantially limit one or more major life activities?
- c. Is student eligible for 504?

Eligibility Decision

The outcome of the Evaluation team meeting can be one of the following:

- a. If student is eligible for Section 504 accommodations, then proceed with the development of a Section 504 Accommodation Plan.
- b. If student is not eligible for Section 504 accommodations, then discuss other possible options to address the student's needs.
- c. If not enough information is available, make a plan for further assessment and return to another evaluation team meeting.

Section 504 Services Plan

Upon determining eligibility for a Section 504 Services Plan, the team can begin developing the plan. The Plan will contain a narrative that identifies the student's disability and resulting needs. Accommodations are listed by the area of concern. The Plan will set the proposed date for implementation and review.

Review

The date of the review should be no later than one year of implementation. The Plan may be reviewed prior to the planned date if modifications are needed. The team will sign the Plan and begin implementation.

Implementation of Section 504 Requirements

Section 504 of the Rehabilitation Act

Section 794. Nondiscrimination under Federal grants and programs; promulgation of rules and regulations

(a) Promulgation of rules and regulations

No otherwise qualified individual with a disability in the United States, as defined in section 706 (20) of this title, shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Development Disabilities Act of 1978. Copies of any proposed regulations shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date of which such regulation is so submitted to such committees.

(b) "Program or activity" defined

For the purposes of this section, the term "program or activity" means all of the operations of --

(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 8801 of Title 20), system of vocational education, or other school system;

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship --

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2) or

(3); any part of which is extended Federal financial assistance.

(c) Significant structural alterations by small providers

Small providers are not required by subsection (a) to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services is available. The terms used in this subsection shall be construed with reference to the regulations existing on March 22, 1988.

(d) Standards used in determining violation of section

The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201-12204 and 12210), as such sections related to employment.

Considering a Possible Section 504 Disability

School staff should consider the possibility of a Disability and possible need for Section 504 protection:

- When suspension or expulsion is considered for any student
- When retention is considered for any student
- When a student shows a pattern of not benefiting from the instruction being provided
- When a student returns to school after a serious illness or injury
- When a student is evaluated and is found not to qualify for special education services under the IDEA
- When a student exhibits a chronic health condition
- When a student is identified as “at risk” or exhibits the potential for dropping out of school
- When substance abuse has been an issue
- When a disability of any kind is suspected

It should be noted that to “consider the existence of a disability” does not necessarily mean to conduct a formal evaluation. Educators should remain mindful that a disability may be embodied in a variety of student behaviors or physical conditions. School personnel must consider the possible educational impact of a broad range of conditions and events in student’s lives and move to formal evaluation when there is any evidence suggesting the possibility of a disability.

Section 504 disabilities may result from communicable diseases (H.I.V., tuberculosis); medical conditions (asthma, allergies, diabetes, heart disease); temporary medical conditions due to accident or illness; attention deficit disorder; borderline intellectual capacity; Tourette’s syndrome; or behavioral difficulties. Students suspected of a disability under Section 504 should be referred for further assessment. Students suspected of being disabled under IDEA should be referred and evaluated according to the District’s special education procedures.

Eligibility under Section 504

To be eligible for services under Section 504, a person must meet the definition of an individual with a disability under this law. This definition is much broader than that of IDEA (Individuals with Disabilities Education Act). Therefore, students who do not meet the IDEA definition may still be considered as “individuals with Disabilities” under section 504.

Who is a “Qualified individual with a disability?”

Under Section 504, a person with a disability includes anyone who:

- has physical or mental impairment which substantially limits one or more major life activities;
- has a record of such impairment; or
- is regarded or perceived as having such impairment.

A major life activity includes: Caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating, and learning.

A “physical or mental impairment” means:

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; genital-urinary; hemic and lymphatic; skin; and endocrine; or
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and learning disabilities.

Having a “record of impairment” means that one has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

Students who are already identified under IDEA meet the Section 504 definition of a handicapped individual and are therefore also eligible under Section 504.

However students, who do not meet the criteria for special education under IDEA, may still be “individuals with a disability” who are protected by 504 and its regulations. For example students with Attention Deficit Disorder (ADD) may be covered by Section 504 if this disorder “substantially” limits their learning. Such person could be considered a “person with a disability” under Section 504.

Other examples include students with asthma or juvenile arthritis who may not require special education services, but would require a modified physical education program, or individuals with communicable diseases, severe allergies, diabetes, behavior disorders, or temporary handicapping conditions.

Students who have exited from special education are eligible for protection under Section 504 because they have a “record” of a disability. A 504 plan could provide them the support they may need in regular education.

Grievance/Due Process Procedures

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act prohibit discrimination against students with a disability. No discrimination against any student with a disability will knowingly be permitted in any of the programs or activities of the District. To ensure the District's compliance with Section 504 and the ADA, the following grievance/due process procedures have been adopted.

1. If a student believes that he/she has been subjected to discrimination on the basis of a disability, in violation of Section 504 or Title II of the ADA, or if the student or parent/guardian disagrees with the District's decision/actions regarding the identification, evaluation, educational services, or educational program of student who, because of a disability, needs or is believed to need Section 504 services, the student or parent/guardian may initiate a written grievance.
2. A grievance must be filed with the District's Coordinator within 30 days of the date upon which the facts giving rise to the grievance arise.
3. Upon the filing of a grievance, the student or parent/guardian will be scheduled for a conference with the building principal and/or the District's Coordinator. This conference shall be convened within ten (10) school days of the receipt of the grievance.
4. The building principal and/or the District's Coordinator shall issue a written decision to the complaining party within five (5) school days of the conference.
5. If the student or the student's parent/guardian disagrees with the building principal and/or the District's Coordinator's decision the student or the student's parent/guardian may take the matter directly to the U.S. Department of Education's Office of Civil Rights. Alternatively, the student or the student's parent/guardian may request a due process appeal before an impartial hearing officer (see below). Hearing requests must be made in writing to the Superintendent within ten (10) calendar days of the issuance of the building principal and/or the District's Coordinator's written decision. The request shall give specific reasons describing the discriminatory conduct and or why the complainant believes the District's actions/decisions are not appropriate. The hearing request should also include the student or the student's parent/guardian proposed resolution of the grievance along with copies of any documents upon which the student or the student's parent/guardian rely for support.
6. An impartial hearing shall be held within ten (10) calendar days of receipt of the written request. The District shall appoint as a hearing officer an individual who is not an employee of the District and who is knowledgeable of Section 504 and the ADA.

7. Each party to the due process hearing has the right to participate in the hearing, present evidence, confront and cross-examine witnesses, and be represented by legal counsel at their own expense.
8. A tape recording of the due process hearing shall be made by the District and a copy of the tape recording shall be provided to the parents upon request.
9. The hearing officer shall issue a written decision within then (10) calendar days of the conclusion of the hearing. The decision shall be provided to the District's Section 504 Coordinator and the student or parents/guardian.
10. Any party aggrieved by the hearing officer's decision may file a civil action in a federal district court.

Resource Information for Section 504 Team
Local, Regional, State and National Contacts for Section 504

Section 504 Coordinator
Lakota Local School District
Special Services Supervisor
5572 Princeton Road
Liberty Township, Ohio 45011
513/874-5505

Office of Civil Rights
Cleveland, Ohio

South West Ohio Special Educational
Regional Resource Center

Director of Special Services
Lakota Local School District
Director of Student Services
5572 Princeton Road
Liberty Township, Ohio 45011
513/644-1212

Lakota Parent Mentor
5572 Princeton Road
Liberty Township, Ohio 45011
513/874-5505

Ohio Civil Rights Commission
220 Parsons Avenue
Columbus, Ohio 43215-5385
614/466-2785

Special Education Division
Ohio Department of Education
933 High Street
Worthington, Ohio 43085
614/466-2650

Office of Special Education and Rehabilitative Services
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202
202/732-1100

U.S. Department of Justice
Civil Rights Division
Disability Rights Section
P. O. Box 66560
Washington, DC 20035-6560
202/514-0301

Section 504 – Notice of Parent’s Rights

Section 504 of the Rehabilitation Act of 1973 is a nondiscrimination statute prohibiting discrimination against persons solely on the basis of handicap, including students, staff members, or other participants in the educational programs, employment, or other activities of school districts receiving Federal financial assistance. Individual or parent (guardian) rights under Section 504 include the following:

- Right to have your child participate in public education programs without discrimination because of his/her disability;
- Right to be informed of your rights under federal law;
- Right to receive notice with respect to identification and evaluation to determine the eligibility of the individual (student) for necessary accommodation to provide access to educational programs;
- Right to have your child educated in facilities and to receive services comparable to those provided to non-disabled students;
- Right to be informed of any proposed action related to determination of eligibility, development of a plan for services, and educational placement of your child;
- Right to examine all relevant educational records;
- Right to receive all information in the parent's or guardian's native language and primary mode of communication;
- Right to periodic reevaluations and an evaluation before any significant change in program or service modification; and
- Right to request a hearing before an impartial hearing officer if there is disagreement with the decisions reached by school personnel regarding your child’s identification, evaluation, educational program (i.e., accommodations necessary for access to educational programming and/or facilities), or placement.

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