



Student Section 504 Procedural Safeguards

For students and their families

Table of Contents

What is the Purpose of this Booklet? 3

What does Section 504 Require?..... 5

Can I Participate in Meetings about My Child? 6

What Rights do I have as a Parent (or Adult Student)..... 6

Will the District Seek My Consent Before Taking Action? 6

Is My Child Entitled to Summer School? 6

Can My Child Attend the School of His or Her Choice? 7

Can the District Discipline My Child for Behavior Related to His or Her Disability? 7

Can I Review My Child’s Records? 7

If I Disagree with the District’s Decisions about My Child, What Can I Do?..... 8

What can I do if I Believe My Child has been Discriminated Against on the Basis
of Disability? 8

Where Can I Go If I Don’t Want To File A Complaint With The District? 10

What Is the Purpose of this Booklet?

This booklet informs parents and students who are disabled of their rights under Section 504 of the Rehabilitation Act of 1973. Section 504 is a Federal law that prohibits discrimination based on disability in any program or activity receiving Federal funds. The Lake Washington School District receives Federal money and does not discriminate based on disability. Any student and/or parent/guardian who believes their child needs assistance from the District because of a disability under Section 504 can use the procedures described in this pamphlet.

For more detailed information on Section 504, please refer to the Section 504 Handbook.

Here are some definitions that might be helpful.

1. Section 504

Section 504 of the Rehabilitation Act of 1973 is a Federal civil rights law. It is designed to eliminate disability discrimination in programs and activities that receive Federal funds. Since all public school districts receive Federal funds, all public school districts must comply with Section 504. Under Section 504, denying a disabled student a **free appropriate public education (FAPE)** is discrimination.

2. Students Eligible under Section 504

Any school-aged student who has a mental or physical impairment that substantially limits one or more major life activities qualifies under Section 504. "Physical or mental impairment" means any physiological or psychological disorder or condition. The definition of physical or mental impairment under Section 504 is broad. It includes students with life-threatening health conditions. Those are conditions that will put a student in danger of death during the school day if a medication or treatment order and/or a nursing plan are not in place. It is not limited to any specific diseases or categories of medical conditions. Addiction to drugs or alcohol may result in a student being eligible.

A temporary impairment is a disability under Section 504 if it is severe enough that it substantially limits a major life activity. Temporary means an actual or expected duration of six months or less.

A physical or mental impairment *substantially limits* a major life activity for a student if the impairment substantially limits the student's performance of a major life activity as compared to the student's non-disabled age/grade peers. There is no single formula or scale that measures substantial limitation. An impairment does not have to prevent or significantly restrict performance of a major life activity to be considered substantially limiting.

Major life activities include functions and activities such as:

- caring for one's self
- performing manual tasks
- walking
- seeing
- hearing
- speaking
- breathing
- learning
- working
- eating
- sleeping
- standing
- lifting
- bending
- reading
- concentrating
- thinking
- communicating

Function may include immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and/or reproductive functions.

The ability to participate in and benefit from school is a major life activity for a school-aged student. The above list of major life activities is not exhaustive.

A disabled student may use mitigating measures to manage his or her impairment or lessen its impact. Examples include medication, medical devices, related aids and/or services, etc. Those measures must be disregarded when determining whether a student's impairment constitutes a disability under Section 504.

Section 504 does apply to preschool students with disabilities enrolled in a District or Federally-funded preschool. The IDEA requires that schools provide FAPE to preschool students with disabilities. Refer preschool students with disabilities or suspected disabilities to the Special Education Department.

Students with disabilities under Section 504 include students who are eligible for Special Education. The difference is that students who are eligible for Special Education need specially designed instruction and/or related services because of a disability that affects their ability to access education. No student should be on both a Section 504 Plan and an Individualized Education Program (IEP) at the same time.

3. Free Appropriate Public Education (FAPE)

FAPE is an education designed to meet a disabled student's individual educational needs. It is based on procedures that satisfy Section 504's identification, evaluation, placement, and/or due process requirements. Typically, this includes accommodations and/or related aids a student needs to participate in and benefit from the District's education program.

Under Section 504, FAPE does not include specially designed instruction. Refer students who may need specially designed instruction for a Special Education eligibility evaluation.

4. Related Aids and Services

"Related aids and services" means any service that a disabled student needs to participate in and/or benefit from the District's education program. If a disabled student can't participate in or benefit without a specific related aid and/or service, that aid and/or service is needed by the student. Related aids and/or services include but are not limited to:

- School health services
- Counseling services
- Environmental, instructional, and/or behavioral accommodations
- Transportation services
- Speech-language services
- Audiology services
- Physical and occupational therapy services
- Orientation and mobility services
- Provision of a modified schedule, grading system, and/or curriculum

5. Parent/guardian

Parent/guardian means a natural or adoptive parent, legal guardian, foster parent, District-appointed surrogate parent, and/or a person acting in the place of a parent, such as a grandparent or stepparent with whom a student actually lives.

6. Adult Student

An adult student is a student who is 18 years of age or older who has not been judged incapacitated by a court of law. An adult student can exercise all Section 504 rights, duties and/or responsibilities previously held by his or her parents

7. School-Based Section 504 Team/Guidance Team

The Guidance Team makes decisions about the initial evaluation and/or placement of students under Section 504. The membership of any particular student's Section 504 team will vary depending upon their needs.

The Guidance Team forms the core of a student's Section 504 team to make initial decisions. The composition of a Section 504 team is fluid. It may change within a school year or between school years as a student's needs and/or services change.

A Section 504 team must consist of at least **two** people. It must include people knowledgeable about the student, the meaning of the student's current evaluation data, and placement options. The Section 504 team determines the scope of evaluations and if students qualify for Section 504. It develops Section 504 Plans. It also determines whether student misconduct was caused by or had a direct and substantial relationship to the student's disability when considering disciplinary exclusion from school.

8. Section 504 Building Monitor

The Building Monitor is a staff member at each school who coordinates all Section 504 activities within the school. The staff member must hold a teaching certificate. The Building Monitor is responsible for coordinating all aspects of the Section 504 referral and evaluation process. In most instances, schools will designate staff members such as a school nurse, counselor, psychologist, or administrator to serve as the Building Monitor.

9. Section 504 Program Coordinator

The Program Coordinator is a staff member in the Special Services department who oversees the District's compliance with Section 504.

What Does Section 504 Require?

Section 504 requires that disabled students receive FAPE. (Remember, that's a Free Appropriate Public Education.) To receive FAPE, students first must be identified as having a disability through an evaluation. Another Federal statute, Individuals with Disabilities Education Act ("IDEA"), requires that FAPE is provided to students with one or more of the specific disabilities covered by IDEA.

The Section 504 definition of a disability is broader than IDEA. It includes any physical and/or mental impairment that substantially limits one or more major life activity. Thus, some students with disabilities under Section 504 are not covered by IDEA.

If you believe your child (or you, if you are an adult student) has a disability under Section 504 and the child is not already being served under IDEA, notify your school's counselor. The Section 504 team will make a decision whether to evaluate your child to determine whether he/she has a disability and is eligible for Section 504 services. If your child is eligible, the Section 504 team will create a written plan (Section 504 Plan). That

plan will describe the services, accommodations, and/or modifications that will be provided. If your child is eligible for services under IDEA, the District will provide such services under the IDEA procedures.

Can I Participate in Meetings About My Child?

Your participation is valuable. You will be able to participate in any meetings about the identification, evaluation, and/or educational placement of your child, along with other matters relating to your child's education.

What Rights Do I Have As A Parent (Or Adult Student)?

You, as the parent/guardian, have the right to be notified in writing about important decisions that affect your child's education. Notification must be in a reasonable time before those decisions are put into place. The District will notify parent(s)/guardian(s) of the following:

- Any Guidance Team decisions related to the student's Section 504 referral.
- Any evaluation results and/or any programming and/or placement recommendations.
- Before initially placing a disabled student.
- Before conducting subsequent evaluations of the student.
- Before implementing a significant change in the student's placement.
- Your right to review and/or challenge the District's program and/or placement decisions through a hearing if you disagree with them.

For more detailed information on different parental rights, please refer to the Section 504 Handbook.

Will the District Seek My Consent Before Taking Action?

Under Section 504, the District must obtain consent from a parent/guardian before a student's initial evaluation. The District also must obtain consent before a student is placed on a Section 504 Plan for the first time. Consent should be obtained using the Parent Consent for an Evaluation form. If a parent/guardian refuses consent to either initial evaluation or initial placement, the District may, but is not required to, initiate a Section 504 due process hearing to override the refusal to consent. The District must notify a parent/guardian before it re-evaluates or significantly changes a student's placement, but does not need to obtain consent. Consent must be informed. That means the parent/guardian must be fully informed of all information relevant to the activity for which consent is sought. The parent/guardian must be informed in his or her native language or other mode of communication.

Is My Child Entitled To Summer School?

The District is committed to a positive and productive educational environment free from discrimination in its educational programs, including the summer semester programs offered to all qualified students. The program usually focuses on reading, writing, and/or math. The program is designed to provide students with the skills they need to meet the District's challenging standards and to succeed on State assessments. This is different from the high school credit retrieval model. No student can be excluded from the summer semester program just because they have a disability.

Can My Child Attend The School Of His Or Her Choice?

No student can be excluded from being able to register at their “home” or neighborhood school boundaries on the basis of disability. Neighborhood schools are designated by the District’s attendance boundaries. Once a Section 504 eligible student is registered at his or her “home” or neighborhood school, he or she may change assigned schools outside the terms of the District’s attendance boundaries under certain conditions. If the student cannot receive the needed services at the assigned school and/or requires a transfer to a school that can offer the student FAPE, they can change assigned schools. If the “home” or neighborhood school team has concerns about their ability to implement the student’s 504 plan, they should contact the District Section 504 Coordinator.

Can The District Discipline My Child For Behavior Related To His Or Her Disability?

Section 504 protects disabled students from improper removal from school for misconduct related to their disability. As a rule, Section 504 and IDEA apply to the disciplinary removal of disabled students in a similar manner. Before the District can implement a disciplinary action that constitutes a “significant change in placement,” it must evaluate the student. The goal of the evaluation is to determine whether the student’s misconduct was caused by, or had a direct and substantial relationship to, the student’s disability or was the direct result of the District’s failure to implement the student’s Section 504 Plan. This type of evaluation is commonly called a “manifestation determination.”

If a disabled student’s misconduct is a manifestation of his/her disability, the District cannot implement a disciplinary action that constitutes a significant change in the student’s placement. If a disabled student’s misconduct is not a manifestation of his or her disability, the District can discipline the student in the same manner that it disciplines non-disabled students for the same misconduct.

Under Section 504, unlike IDEA, the District does not have to provide a disabled student educational services during the period the student is properly removed from school for disciplinary reasons. However, students must be given the same access to services that are available to non-disabled students who are long-term suspended or expelled, including access to re-entry programs.

For more detailed information on discipline, please refer to the Section 504 Handbook.

Can I Review My Child’s Records?

Federal law entitles you to access to your child’s educational records. The District has written policies about school records (LWSD School Board Administrative Policies; Students (J) Files JO, JO-R). These policies are published and available on the District’s website at www.lwsd.org.

You have the right to examine your child’s education records and obtain a copy of such records. You also have the right to receive a response to reasonable requests for explanations and/or interpretations of your child’s education records. You have the right to request the District to amend your child’s education records if you believe they are inaccurate, misleading, and/or otherwise in violation of the privacy rights of your child. If the District refuses this request, you have the right to challenge such refusal under the Family Educational Rights and Privacy Act (“FERPA”).

If I Disagree With the District's Decisions About My Child, What Can I Do?

Section 504 gives parent/guardian the right to challenge District decisions regarding the identification, evaluation, and/or educational placement of their child. Under Section 504, the District must notify a student's parent/guardian before it takes any action regarding the identification, evaluation, and/or placement of their child. It must provide the parent/guardian an opportunity to challenge the action if they disagree. "Any action" includes a decision not to evaluate a student and/or denial of placement. The minimum necessary due process rights include: prior notice of any action; a right to inspect records; an impartial hearing with a right to representation by counsel; and/or a review procedure.

Parents/guardians and adult students have the following hearing rights:

- Both parties have the right to be accompanied and/or advised by persons with special knowledge or training with respect to the problems of Section 504 students
- Both parties have the right to be advised and/or represented by an attorney.

For more detailed information on hearing rights, please refer to the Section 504 Handbook.

What Can I Do if I Believe My Child Has Been Discriminated Against Based on Disability?

The District prohibits discrimination and/or harassment based on national origin, race, economic status, sex, sexual orientation, pregnancy, marital status, and/or *disability*. Any student or parent/guardian who believes they have been discriminated against by or within the District on the basis of disability has the option of using the complaint procedures outlined below.

There are two complaint processes: the Informal Complaint Process and the Formal Complaint Process.

A. INFORMAL COMPLAINT PROCESS

Anyone may use the informal complaint procedures to report and/or resolve complaints of disability discrimination. The informal complaint process does not have to be used before filing a formal complaint. Informal reports may be made to any staff member and/or District 504 Coordinator. Staff and/or District 504 Coordinator will direct staff complaints regarding staff issues to the District's Human Resources Department. They will direct student/parent complaints to the District 504 Coordinator. The complainant should be informed of the right to file informal and/or formal complaints of disability discrimination.

The complainant will receive an opportunity to explain the allegation of disability discrimination. The District and the complainant may identify an agreeable remedy to the dispute during the informal process. Informal complaints may become formal complaints at the request of the complainant or because the District believes the complaint needs to be more thoroughly investigated.

B. FORMAL COMPLAINT PROCESS

Anyone may use the formal complaint procedures to resolve complaints of disability discrimination using the Grievance/Discrimination Complaint Form. Submit written complaints to the District's Human Resources Department (staff) or District 504 Coordinator (students). The following process will be followed:

- A designee of the Superintendent will receive and investigate all formal, written complaints of disability discrimination. The designee will also investigate information in the District's possession regarding suspected disability discrimination they believe requires further investigation. If the complaint involves a member of the District's Human Resources staff and/or the District 504 Coordinator, the Superintendent will designate an impartial investigator to address the allegations.
- All formal complaints of disability discrimination must be made in writing using the Grievance/Discrimination Complaint Form. The complainant must sign them. The formal complaint must set forth the specific acts, conditions, and/or circumstances alleged to have occurred and that may constitute disability discrimination. When a formal complaint is received, the complainant will be given a copy of the District's discrimination complaint procedure.
- The investigation will address the allegations raised and be conducted in an impartial manner. The complainant will have the opportunity to provide witnesses and/or other information.
- When the investigation is completed, the Superintendent's designee will compile a written report. The report will identify the results of the investigation and what corrective measures, if any, are needed.
- The Superintendent's designee will respond to the complainant within 30 calendar days of the date the complaint was received. If the investigation cannot be completed within 30 days, the Superintendent's designee will notify the complainant that the investigation is incomplete. They will identify a date by which the investigation will be complete. The written response to the complainant following completion of the investigation will include a summary of the results of the investigation. The response will state whether the District has failed to comply with WAC 392-190 or the nondiscrimination guidelines adopted by OSPI, the corrective measures necessary to correct the noncompliance, and notice of the complainant's right to appeal.
- If the matters have not been resolved to the satisfaction of the complainant within 15 days of receiving the investigative report, the complainant may file for a review by the Superintendent.
- The Superintendent will respond in writing to the complainant within 30 days after the request for review is received.
- Corrective measures will begin as quickly as possible, but no more than 30 days after final written response from the District is issued. An exception would be a matter involving the District's due process obligations owed to its employees.

For more detailed information on the complaint process, please refer to the Section 504 Handbook.

Where Can I Go if I Don't Want to File a Complaint with the District?

Parents/guardians and adult students also have the right to file a complaint with the Office for Civil Rights (“OCR”), the body that enforces Section 504. OCR’s focus is on the process the District follows to identify, evaluate, and/or provide an educational placement to a disabled student and to provide procedural due process to the student’s parent(s)/guardian(s).

Except in extraordinary circumstances, OCR does not review the result of individual placement and/or other educational decisions if the District complies with the procedural requirements of Section 504 relating to identification and/or location of students with disabilities, evaluation of such students, and/or due process.

OCR generally will not evaluate the content of a Section 504 Plan or an IEP. Any disagreement can be resolved through a due process hearing.

OCR will examine procedures by which the District identifies and evaluates students with disabilities. It will review the procedural safeguards the District provides students. OCR will also examine incidents in which students with disabilities allegedly are subjected to treatment that is different from the treatment of similarly situated students without disabilities. Such incidents may involve the unwarranted exclusion of disabled students from educational programs and/or services.

The address of the OCR regional office that covers LWSD is:

U.S. Department of Education

Office for Civil Rights

Henry M. Jackson Federal Building

915 Second Avenue, Room 3310

Seattle, WA 98174-1099

www.ed.gov/OCR

email address: OCR.Seattle@ed.gov