

**WEST BRANCH LOCAL SCHOOL DISTRICT
NOTICE TO PARENT RIGHTS AFFORDED BY
SECTION 504 OF
REHABILITATION ACT OF 1973**

WEST BRANCH LOCAL SCHOOL DISTRICT NOTICE TO PARENT RIGHTS AFFORDED BY SECTION 504 OF REHABILITATION ACT OF 1973

The following is a description of the rights granted by federal law to students with disabilities. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions.

YOU HAVE THE RIGHT TO:

1. Have your child take part in, and receive benefits from, public education programs without discrimination because of his/her disability;
2. Have the district advise you of your rights under federal law;
3. Receive notice with respect to identification, evaluation, or placement of your child;
4. Have your child receive a free and appropriate public education. This includes the right to be educated with non disabled students to the maximum extent appropriate. It also includes the right to have the school district make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities;
5. Have your child educated in facilities and receive services comparable to those non disabled students;
6. Have your child receive special education and related services if he/she is found to be eligible under the individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act;
7. Have evaluation, educational, and placement decisions made based upon a variety of information sources, and by persons who know the student, the evaluation data, and service options;
8. Have transportation provided to and from an alternative placement setting (if the setting is a program not operated by the district);
9. Examine all relevant records relating to decisions regarding your child's identification, evaluation, and placement;
10. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records;
11. A response from the school, district to reasonable requests for explanations and interpretations of your child's records;
12. Request mediation or impartial due process hearing related to decisions or actions regarding your child's identification, evaluation, educational program or placement. You may have an attorney represent you; and
13. File a grievance at the district level with:
Mrs. Lindsey Szymanski
Director of Special Services
14277 S. Main Street
Beloit, OH 44609
330.938.4490
lindsey.szymanski@wbwarriors.org
14. File a complaint with the Office for Civil Rights.

The person in this district responsible for assuring that the district complies with Section 504 is: Mrs. Lindsey Szymanski
Director of Special Services
14277 S. Main Street
Beloit, OH 44609
330.938.4490
lindsey.szymanski@wbwarriors.org

Specific contact information for the Office for Civil Rights is posted on the web at www.ed.gov/offices/OCR/

APPENDIX A

SECTION 504 OF THE REHABILITATION ACT OF 1973

"No otherwise qualified individual with disabilities in the United States shall, solely by reason of her or his disability, as defined in section 706(8) of this title, 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." (29 U.S.C. Sec.794)

DEFINITIONS

Individual with Disabilities..." any individual who:

- (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities,
- (ii) has a record of such impairment, or
- (iii) is regarded as having such an impairment."

(29 U.S.C. Sec.706(8))

Physical or Mental Impairment...

"(A) 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; hermic and lymphatic; skin; and endocrine; or

(B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities."

(34 Code of Federal Regulations Part 104.3)

Major Life Activities

"... functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working."

(34 Code of Federal Regulations Part 104.3)

Has a record of such an impairment

"... has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities."

(34 Code of Federal Regulations Part 104.3)

Is regarded as having an impairment

"... (A) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (C) has none of the impairments defined but is treated by a recipient as having such an impairment.

(34 Code of Federal Regulations Part 104.3)

APPENDIX B

DISCRIMINATION UNDER SECTION 504 (§104.4(b))

Discrimination under Section 504 occurs when a recipient of federal funds:

1. Denies a disabled person the opportunity to participate in or benefit from an aid, benefit or service which is afforded nondisabled students (e.g., district practice of refusing to allow any student on an IEP the opportunity to be on the honor roll; denial of credit to a student whose absenteeism is related to his/her disability; expelling a student for behavior related to his/her disability; refusing to dispense medication to a student who could not attend school otherwise).
2. Fails to afford the disabled person an opportunity to participate in or benefit from the aid, benefit, or service that is equal to that afforded others (e.g., applying a policy that conditions interscholastic sports eligibility on the student's receiving passing grades in five subjects without regard to the student's disability).
3. Fails to provide aids, benefits, or services to the disabled person that are as effective as those provided to nondisabled persons (e.g., placing a student with a hearing impairment in the front row as opposed to providing her with an interpreter). [Note: "Equally effective" means equivalent as opposed to identical. Moreover, to be equally effective, an aid, benefit or service need not produce equal results; it must merely afford an equal opportunity to achieve equal results.]
4. Provide different or separate aids, benefits or services unless such action is necessary to be as effective as the aids, benefits or services provided to nondisabled students (e.g., segregating students in separate classes, schools or facilities, unless necessary).
5. Aids or perpetuates discrimination by providing significant assistance to an agency, organization or person that discriminates on the basis of disability (e.g., sponsoring a student organization that excludes persons with disabilities).
6. Denies a person with disabilities the opportunity to participate as a member of a planning or advisory board strictly because of his/her disability.
7. Otherwise limits the enjoyment of any right, privilege, advantage or opportunity enjoyed by others (e.g., prohibiting a person with a physical disability from using a service dog at school).
8. In determining the site or location of a facility, makes selections which effectively exclude persons with disabilities, denies them the benefits of, or otherwise subjects them to discrimination. [Note: In *Hendricks v. Gilhool*, EHLR 441:352 (1989), the Pennsylvania Department of Education was found to have violated this section and the EHA by allowing students with disabilities to be located in inferior facilities, such as trailers, wings in basements and unnecessarily restrictive classrooms due to a lack of classroom space.]

APPENDIX C

THE LANGUAGE OF SECTION 504

ACCOMMODATION - any action or service provided for a student with a disability in an effort to meet the educational needs of such a student as adequately as the educational needs of a nondisabled student are met. The term may include specialized education, related services and aids and/or be limited to a physical modification.

ACCOMMODATION, PHYSICAL - any action, assistive device, equipment or other consideration to equalize opportunity. It does not include change(s) in instructional programs. The term is exemplified when accommodation is limited to providing special equipment, administering medication, preferential seating and other considerations.

ACCOMMODATION PLAN - (504 Plan) written document developed by a team that outlines accommodations necessary for a student who has a physical or mental impairment which substantially limits one or more major life activities (i.e., student is 504 protected due to a current disability).

BARRIER-FREE - a school environment that contains no obstacles to accessibility and usability by students with disabilities. Barrier means physical and non-physical.

COMPARABILITY TEST - a method to attempt to determine what accommodations are needed to meet the educational needs of students with disabilities as adequately as the needs of nondisabled students are met.

COMPLIANCE OFFICER - the person specifically named by the school district to coordinate the requirements of Section 504 of the Rehabilitation Act of 1973.

DISABLED PERSON - any person who (1) has a physical or mental impairment which substantially limits one or more major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. The term is not necessarily synonymous with disabled children as set forth in IDEA-B.

ELIGIBLE STUDENT- In order to be eligible for a 504 Accommodations Plan, the student must have a physical or mental impairment that impacts one or more major life activity area, and substantially limits the student's opportunity to access programs and activities provided by the school district.

FREE APPROPRIATE PUBLIC EDUCATION (FAPE) - The provision of an appropriate education is the provision of regular or special education services that are (1) designed to meet the needs of students with disabilities as adequately as the needs of nondisabled students are met, and (2) are based upon adherence to procedural requirements of Section 504. Subpart D, Section 104.33 (b).

MAJOR LIFE ACTIVITY - functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working (list is not all inclusive).

OFFICE FOR CIVIL RIGHTS (OCR) - This agency enforces several Federal civil rights laws that prohibit discrimination in programs or activities that receive Federal financial assistance from the Department of Education. These laws prohibit discrimination on the basis of race, color, and national origin, sex, disability, and on the basis of age. These laws extend to all state education agencies, elementary and secondary school systems, colleges and universities, vocational schools, proprietary schools, state vocational rehabilitation agencies, libraries, and museums that receive U.S. Department of Education funds. OCR has three primary responsibilities: investigating complaints, conducting compliance reviews, and providing technical assistance. There are twelve regional offices located

throughout the United States; specific contact information is posted on the web at www.ed.gov/offices/OCR/

REASONABLE ACCOMMODATION - The definition [§104.12] includes a reference to “undue hardship”, with further explanation of that term. The term “reasonable” applies more specifically to employment issues than to FAPE (student education issues). School districts are required to make any accommodations necessary to allow a student with disabilities to have access to an education that is comparable to the education received by nondisabled students (FAPE). OCR has indicated that the reasonable consideration does apply to nonacademic and extracurricular activities.

RECIPIENT - any agency receiving federal financial assistance in any of its programs.

SECTION 504 TEAM - two or more persons who have knowledge about the child, the meaning of evaluation data, and accommodations/placement options. Usually there is a 504 Coordinator assigned at the school level who determines membership of the 504 Team.

SPECIAL EDUCATION – “Neither the Section 504 regulation nor OCR has further defined the phrase “special education” as it is used in the regulations. What constitutes “special education” under the civil rights statutes and regulations is a decision for a local education agency to make in conformance with whatever other local, state and federal laws apply---such as the IDEA.” [23 IDELR 504(1995)]

SUBSTANTIAL LIMITATION – This term is to be defined by each local district. Most use the definition similar to the one found in the Americans with Disabilities Act. The student, when compared to the average student of the same age in the general population, is unable to perform, or significantly restricted in the level of performance in a major life activity area.

APPENDIX D

INFORMATION REGARDING SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 is a federal law that prohibits discrimination against individuals with a disability in any program receiving federal assistance. The Act defines a person with a disability as anyone who:

1. has a mental or physical impairment which substantially limits one or more major life activities (major life activities include activities such as caring for one's self, performing manual tasks, walking seeing, hearing, speaking, breathing, learning and working);
2. has a record of such impairment; or
3. is regarded as having such an impairment.

In order to fulfill its obligation under Section 504, the school district recognizes a responsibility to avoid discrimination in policies and practices regarding its personnel, students and their parents. No discrimination against any person solely due to his/her disability will knowingly be permitted in any of the programs and practices in the school system.

The school district has specific responsibilities under the Act, which include the responsibility to identify, evaluate, and if the child has a current disability and is termed to be eligible under Section 504, to afford access to appropriate educational programs.

If the parent or guardian disagrees with the determination made by the professional staff of the school district, he/she has a right to a hearing with an impartial hearing officer.

The Family Educational Rights and Privacy Act (FERPA) specify rights related to educational records. This Act gives the parent/guardian or eligible student the right to: 1) inspect and review the child's educational records; 2) make copies of these records; 3) receive a list of all persons having access to those records; 4) ask for an explanation of any item in the records; 5) ask for an amendment to any report on the grounds that it is misleading, inaccurate, or violates the child's rights; and 6) a hearing on the issue if the school refuses to make the amendment.

If there are any questions, please feel free to contact:

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