



*Lemont High School District 210  
Student Services Department*

## **SECTION 504 PROCEDURES AND GUIDELINES**

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**PART I: OVERVIEW OF SECTION 504 OF  
THE REHABILITATION ACT OF 1973**

**A. INTRODUCTION AND DEFINITIONS**

Section 504 of the *Rehabilitation Act of 1973* (“Section 504”) is a federal civil rights law that prohibits discrimination on the basis of disability in any program or activity receiving federal financial assistance. Specifically, Section 504 provides that:

“No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his 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...”

29 U.S.C. § 794

As a recipient of federal funding, the District may not discriminate on the basis of disability with respect to the provision of any of its programs, services, benefits or activities.

For a student to be protected from discrimination under this law, he or she must: (1) have a physical or mental impairment which substantially limits one or more major life activities; *or* (2) have a record of impairment; *or* (3) be regarded as having an impairment.

In addition to its general non-discrimination requirements, Section 504 requires the District to provide a free appropriate public education (“FAPE”) to each eligible student who has a physical or mental impairment which substantially limits a major life activity and needs special education or related aids and services. Under Section 504, 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 are met, and in accordance with Section 504 requirements pertaining to educational setting, evaluation, placement, and procedural safeguards. The FAPE obligation extends to all eligible students, regardless of the nature or severity of their disability. For each eligible student, FAPE is set forth in a Section 504 Plan.

Under Section 504, public elementary and secondary schools must have a system of procedural safeguards with respect to their actions regarding the identification, evaluation, or educational placement of persons, who because of disability, need or are believed to need special instruction or related service.

The following definitions apply to the District’s Section 504 process and procedures:

**Qualified Disabled Person** means, with respect to public preschool, elementary, secondary, or adult education services, any individual with a disability who is (i) of an age during which non-disabled persons are provided such services, (ii) of any age during which it is mandatory under state law to provide such services to disabled persons, or (iii) an individual to whom a state is required to provide a free appropriate public education under the *Individuals with Disabilities Education Act*.

**Individual with a Disability** means any person who:

- Has a physical or mental impairment which substantially limits one or more major life activities; or
- Has a record of such an impairment; or
- Is regarded as having such an impairment.

**Physical or Mental Impairment** means:

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

### **Substantial Limitation**

The determination of whether there is a substantial limitation on any major life activity due to the physical or mental impairment must be made on a case-by-case basis for each student. The term “substantial limitation” means that a person is unable to perform a major life activity that most people in the general population can perform.

### **Major Life Activities**

Major life activities include, but are not limited to:

- Caring for oneself
- Performing manual tasks
- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Learning
- Eating
- Sleeping
- Standing
- Lifting
- Bending
- Concentrating
- Thinking
- Communicating
- Working
- Reading
- Operation of major bodily functions (including but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions)

**Has a Record of Impairment** means that a person has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

Someone with a record of an impairment may not be discriminated against because of his or her record of a disability.

**Is Regarded as Having an Impairment** means that a person:

- Has a physical or mental impairment that does not substantially limit major life activities but that is treated as constituting such a limitation;
- Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others towards such impairment; or
- Has none of the impairments described above but is treated as having such an impairment.

**Equal Access** means equal opportunity of a qualified student with a disability to participate in or benefit from educational aids, benefits, or services.

### **Accommodation**

A physical, curricular, or programmatic change that allows the student with a disability to access his/her education. Such change does not constitute an alteration of the learning standard. Typically, accommodations consist of a change in the format of the instructional material or a change in the physical location for the delivery of instruction or services. Taking a test outside of the classroom, extended time for completion of tests or other school work, or tests read to a student are a few examples of accommodations.

### **Modification**

A change to the educational program that has the effect of lowering or reducing the learning expectations. A modification does not hold the student with a disability to the same learning requirement as their non-disabled peers. Reducing or otherwise altering assignments and tests to eliminate the more difficult items is one example of a modification.

### **Mitigating Measures**

Measures that eliminate or reduce the symptoms or impact of impairment. Examples include, but are not limited to, such things as medications, medical equipment and devices, prosthetic limbs, low vision devices, reasonable accommodations, and behavioral modifications. However, mitigating measures do not include ordinary eyeglasses or contact lenses. The corrective effect of mitigating measures may not be used to rule out Section 504 eligibility when determining whether a physical or mental impairment substantially limits any major life activity.

### **Related Services**

Developmental, corrective, and other supportive services, including psychological, counseling, and medical diagnostic services and transportation; that may be necessary for an elementary or secondary student with disabilities to have an equal opportunity to benefit from a school district's instructional programs and services.

## **Response to Intervention (RtI)**

Usually, RtI (sometimes also referred to as a Multi-Tiered System of Supports or “MTSS”) is a tiered intervention process that begins with classroom interventions utilized for all students and may progress to targeted individualized interventions. The RtI process is managed by a building-based Student Services Team.

## **B. SECTION 504 TEAM MEMBERS**

Section 504 team membership may vary based on the purpose of the meeting and the impairment(s) under consideration. Invitations to a Section 504 team meeting will generally include the student, parents or guardians, case manager, Section 504 Coordinator, at least one teacher, and other school personnel who have knowledge of or work with the student. For meetings discussing eligibility and placement decisions, there must be a person or persons knowledgeable about evaluation data and placement options. This includes a professional who administered any recent assessment or one who is qualified to interpret the assessment and its instructional implications. For example, the school nurse, occupational therapist, or physical therapist would likely be a member when a physical impairment is being considered, depending on the nature of the impairment. The school psychologist may be a required member when a mental impairment is being considered.

District staff members may serve multiple roles if they meet the requirements of each role. Other staff members may attend if the Section 504 Coordinator believes they may contribute to the process. Other administrative staff, such as the building principal or Assistant Superintendent, may attend if necessary to provide guidance and/or assistance to the team. Parents may also invite individuals knowledgeable about their child and share any outside evaluations, reports, or information that they wish the Section 504 team to consider.

## **C. TYPES AND NOTIFICATION OF MEETINGS**

### **Initial Evaluation Meeting**

An Initial Evaluation Meeting is the first type of Section 504 meeting. At this time, the Section 504 team members review existing data or other information about the student and decide what additional data or other information is needed to determine the student’s Section 504 eligibility and needs. The Section 504 case manager (usually the student’s counselor) then asks for written consent from the parent/guardian for the Section 504 evaluation. (A signed *Parent/Guardian Consent for Evaluation* form is required before the District begins any evaluation.) The focus of this meeting is to review what types of data will be collected and/or what areas of testing are needed in order to gain a full understanding of the student’s disability, how it substantially limits one or more major life activities, and their need for special education and related aids and services, accommodations, and modifications.

At the discretion of the District, the determination of the evaluation components for the Section 504 evaluation may be accomplished through a phone conference or virtual meeting with the parent/guardian. However, written parental consent is always required before proceeding with the Section 504 evaluation.

*Timeline: The Initial Evaluation Meeting is held within a reasonable time from the receipt of the Section 504 evaluation referral, generally within 14 school days.*

### **Eligibility Determination Meeting**

An Eligibility Determination Meeting is conducted when the Section 504 team convenes and applies the student evaluation data and other relevant information to the eligibility criteria in order to make a final determination as to whether a student is an individual with a disability under Section 504.

*Timeline: The Eligibility Determination Meeting is held within a reasonable time after the parent/guardian provides written consent for the evaluation, generally within 60 school days. In most circumstances, Eligibility and Plan Development Meetings will occur at the same time.*

### **Section 504 Plan Development Meeting**

At the Section 504 Plan Development Meeting, the Section 504 team determines what type(s) of special education or related aids and services, including, but not limited to, accommodations, modifications, and instructional and/or related services, the student needs to receive a free, appropriate public education ("FAPE").

*Timeline: The Section 504 Plan Development Meeting is held within a reasonable period of time following the Eligibility Determination Meeting, generally within 30 calendar days. Every effort will be made to schedule the Eligibility and Section 504 Plan Development Meetings at the same time.*

### **Annual Review Meeting**

The Section 504 Annual Review Meeting allows team members to review and discuss the Section 504 Plan implemented over the past year, discuss the student's progress, current levels of performance and needs, and determine if any changes to the Section 504 Plan are needed for the next year. An Annual Review Meeting may also be held at the beginning of the school year, as it affords the student's new teachers a chance to discuss and review the Section 504 Plan.

*Timeline: A Section 504 Annual Review Meeting is held annually, generally within one year of the date of the Section 504 Plan Development Meeting or last Annual Review Meeting.*

### **Reevaluation Meeting**

Reevaluation Meetings are conducted periodically to determine (1) if the student remains eligible under Section 504 as an individual with a disability and, if so (2) the student's current needs. The Section 504 team reviews current data and other relevant information such as any assessments that have been conducted.

*Timeline: For students entering freshman year with a Section 504 plan, reevaluations will generally occur during sophomore year unless circumstances warrant initiating a reevaluation sooner. For students whose initial eligibility occurs during freshman year, their team will determine if a reevaluation is needed senior year or sooner if*



*circumstances warrant. A Reevaluation meeting will typically be combined with the current year's Annual Review Meeting.*

### **Other Meetings at Parent or Staff Request**

Section 504 meetings may also be held at the request of a parent/guardian or staff member to discuss concerns they have regarding any aspect of the student's needs or Section 504 Plan. District staff may ask for specific clarification of the parent's concern before scheduling the Section 504 team meeting but generally will not delay or decline to hold the meeting if clarification is not provided.

*Timeline: Meetings at parent or staff request will be held within a reasonable period of time, generally within 15 calendar days of receipt of the request.*

### **Manifestation Determination Meeting**

A Manifestation Determination Meeting is required if the student engages in misconduct and the recommended discipline is either suspension that results in a total of more than 10 school days of suspension in the aggregate in a school year and/or expulsion.

*Timeline: Section 504 Manifestation Determinations will be convened as soon as possible but no more than 10 school days after the misconduct in question.*

### **Combination of Meetings**

Many Section 504 team meetings can be combined. For example, the Eligibility Determination Meeting and Section 504 Plan Development Meeting are often held at the same time.

### **Required Notification of Meetings**

In addition to the above timelines, a school must provide a *Section 504 Meeting Notice* form to the parent(s), generally 10 calendar days before a Section 504 team meeting is held. A Manifestation Determination Meeting will generally be scheduled on a more expedited basis but must be held no later than 10 school days of the misconduct that led to suspension or recommendation for expulsion. Parents always have the option of waiving their right to 10-day notice in order to have the meeting occur sooner than 10 calendar days. As part of the *Section 504 Meeting Notice* form, the parent(s) will be provided a copy of the parental rights document, *Parents' Rights In Brief*.

## **PART II: SECTION 504 PROCESS AND PROCEDURES**

### **A. PRIOR TO REFERRAL FOR 504 CONSIDERATION: RtI**

Prior to a formal referral for a Section 504 evaluation and eligibility determination, it may be that academic or other regular education interventions have already been initiated. For students who are displaying academic, social, emotional, behavioral, or other difficulties in school, this process often begins with a referral to a Student Support Team. RtI offers effective strategies for strengthening educational opportunities and supporting students with academic, social, emotional, behavioral, or other difficulties in school. RtI strategies are often utilized before Section 504 referrals are initiated and are particularly important since many accommodations and services can be provided during the RtI process. However, although often beneficial, RtI interventions are not required before a parent or staff member can make a Section 504 referral if the student has a mental or physical impairment that substantially limits one or more major life activities and needs, or is believed to need, special education or related aids and services.

If the classroom teacher implements RtI interventions but the student continues to experience difficulties, the teacher submits the data collected during the RtI process to the problem-solving team for further review. Following its review of the RtI data collected the team may suggest:

- Additional RtI interventions; and/or
- A referral of the student for a Section 504 evaluation; or
- A referral to the Special Education Department for an evaluation under the *Individuals with Disabilities Education Act ("IDEA")*.

### **B. FORMAL REFERRAL OR REQUEST FOR A SECTION 504 EVALUATION**

An individual (parent/guardian/staff member) may make a Section 504 referral for a student who is suspected of having a disability under Section 504 by submitting a written request to the Section 504 Coordinator. The problem-solving team will review the referral and decide whether a 504 evaluation is warranted, and prior written notice will then be given to the parents. The prior written notice will state the reason(s) for the decision to evaluate or not to evaluate, as well as a copy of the *Parents' Rights in Brief*.

If the referral is made by a District staff member, the parent will be provided with a written notice of the referral and may be asked to provide written consent for a Section 504 evaluation. The request to evaluate will outline the specific components of the proposed evaluation, including data or other information already in the District's possession, and any additional information to be obtained. In some cases, a review of records from various sources may be sufficient, but in other cases assessments, surveys and/or interviews may be required in order to obtain an accurate and thorough understanding of the student's impairment and needs. In all cases, a District request for an evaluation will be provided within the form *Consent for Evaluation* and accompanied by a copy of the *Parents' Rights in Brief*. The evaluation will not be initiated until written parental consent is received.

### **C. SECTION 504 EVALUATIONS**

After receiving written parental consent for the Section 504 evaluation, the evaluation and data collection process must be completed in a timely manner. The school will complete the evaluation process within 60 school days after receiving written parental consent. An evaluation under Section 504 could, but does not necessarily, require the administration of formal assessments, but does include the gathering and examination of all relevant information regarding the student for review by the Section 504 team.

Sources of information may include, but are not limited to:

- Parental information (including data/information about mitigating measures, if any)
- State and District test results and curriculum-based assessments (e.g., PSAT, SAT, MAP scores)
- Progress-monitoring data
- Report cards/student grades
- Work samples
- Teacher input (including data/information about mitigating measures, if any)
- Observation data
- Health history
- Developmental and/or cultural background information
- Attendance data
- Disciplinary and behavioral records and data
- Hearing and vision screenings
- Formal assessments of cognitive, academic, functional (e.g., adaptive), social-emotional, communication, and motor skills
- Physician's or other private service providers' reports

If formal testing is determined to be necessary, as identified in the evaluation/consent documentation, the evaluation procedures must ensure that:

- Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer.
- Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.
- Tests are selected and administered so as to best ensure that when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except when those skills are the facets that the tests purports to measure).

## **Medical Information**

A medical diagnosis of a physical or mental impairment does not, in and of itself, determine Section 504 eligibility or entitle a student to a Section 504 Plan. As mentioned above, Section 504 requires the District to draw upon information from a variety of sources in making an eligibility determination. *A medical diagnosis is only one source of information that the Section 504 team will consider.* Additionally, the District may request, but may not require, a parent to provide a medical statement or authorize the release of the student's medical information as part of the evaluation process. If the District determines, based on the facts and circumstances of an individual case, that medical information or a medical assessment is necessary for an appropriate evaluation, the District must ensure that the child receives this assessment at no cost to the parents. If alternative assessment methods meet the evaluation criteria, those methods may be used in lieu of a medical assessment. If a parent refuses to consent to a medical assessment and alternate methods are not available, the Section 504 team may proceed to make an eligibility determination based on the information it has on hand.

### **D. SECTION 504 ELIGIBILITY DETERMINATIONS**

After the evaluation components have been completed and the information compiled, the Section 504 team meets to determine if the student qualifies as an individual with a disability and whether a Section 504 Plan is warranted.

While some students will require systematic, consistently implemented accommodations, modifications and/or related aids and services, a student should not have to be designated as having a disability and have a Section 504 Plan in order to be able to use an organizer or to change where he/she sits in the classroom. Section 504 Plans go beyond the everyday regular education supports that teachers provide as a matter of course. The fact that there are, or may be in the future, teachers who do not typically provide such supports does not automatically render the student eligible for a Section 504 Plan. Similarly, the student would not be considered eligible because his/her parent wants to ensure that future teachers will be required to provide accommodations(s). Only the current needs of the student are considered in making a decision about whether a student with a disability requires a Section 504 Plan.

### **Eligibility Determinations**

Upon a review of any testing done as well as data and/or other information gathered, the Section 504 team determines whether the student has a physical or mental impairment that substantially limits one or more major life activities. An impairment does not, in and of itself, qualify a student for protection under Section 504. School districts are prohibited from considering the ameliorating effects of any mitigating measures in making this determination. As an example, the ameliorating effects of a daily dosage of insulin to control a diabetic student's condition may not be used to exclude him from qualifying as an individual with a disability. The only exception to this rule is that the corrective effects of ordinary eyeglasses or contact lenses may be considered in determining if an impairment substantially limits a major life activity.

Section 504 eligibility determinations follow this process:

**1. Physical or Mental Impairment?**

Discuss evaluation data and other information from a variety of sources and (a) determine if there is a physical or mental impairment; (b) if there is, identify the specific impairment; and (c) document the bases for these conclusions.



**2. Substantial Limitation on One or More Major Life Activities?**

If a physical or mental impairment exists (a) decide if, *without the positive effects of mitigating measures*, the impairment substantially limits any major life activity; (b) identify the major life activity(ies); and (c) document the basis for these conclusions.



**3. Need for Special Education or Related Aids and Services?**

Determine if, as a result of the physical or mental impairment on a major life activity, the student needs special education or related aids and services. *The positive effects of mitigating measures may be considered in making this determination.*

In considering Section 504 eligibility, the team makes one of the following determinations:

▪ The student is **Not a Student with a Disability:**

The student is not a student with a disability because there is no physical or mental impairment *or* the physical or mental impairment does not substantially limit a major life activity.

▪ The student **Is a Student with a Disability and Is Protected from Discrimination But Does Not Require a Section 504 Plan:**

The student is a student with a disability because there is a physical or mental impairment that substantially limits one or more major life activities. However, the student does not need special education or related aids and services, so no Section 504 Plan will be developed but the student will be eligible for protection from discrimination on the basis of disability.

For example, a student has severe asthma, which substantially limits the major life activities of breathing and the function of the respiratory system. However, based on the evaluation, the Section 504 team determines that the student does not need any special education or related aids and services. The student fully participates in physical education class and extracurricular sports and needs no assistance in administering his asthma medication. This student is still an individual with a disability and is protected from disability-based discrimination but is not entitled to a Section 504 Plan.

- The student **Is a Student with a Disability And Requires a Section 504 Plan:**

The student is a student with a disability because there is a physical or mental impairment that substantially limits a major life activity, and special education or related aids and services are needed in order that the student's individual needs are met as adequately as those of nondisabled peers and for the student to receive a FAPE. A Section 504 Plan will be developed. According to OCR, an appropriate education (FAPE) for a student with a disability could consist of education in regular classrooms, education in regular classes with supplementary services, and/or special education and related services.

The Section 504 Coordinator or case manager will inform all staff members who work with the student of the student's disability, Section 504 Plan content, and their role in implementing the 504 Plan. The Section 504 Coordinator or case manager will monitor staff implementation of the 504 Plan.

### **Special Eligibility Determinations**

- Students with **Episodic Impairments:** The student is a student with a disability because there is an episodic physical or mental impairment that, when active, substantially limits a major life activity, and special education or related aids and services are needed for the student's needs to be met as adequately as those of nondisabled peers and for the student to receive a FAPE. **A Section 504 Plan will be developed that will be implemented when the impairment is active.** When the impairment is inactive, the Section 504 Plan will not be implemented, but it is understood that Section 504's non-discrimination provisions will still protect the student, and the District may not discriminate against the student on the basis of disability. For example, a student with bipolar disorder would fall into this category if, during manic or depressive episodes, he/she is substantially limited in a major life activity (*e.g.*, thinking, concentrating, or neurological/brain function).
- Students with **Impairments in Remission:** The student is a student with a disability because there is a physical and mental impairment that is in remission but, when active, substantially limits a major life activity, and special education or related aids and services are needed in order for the student's needs to be met as adequately as those of nondisabled peers and for the student to receive a FAPE. **The need for a Section 504 Plan will be addressed if/when the impairment is no longer in remission.** When the impairment is in remission, it is understood that Section 504's non-discrimination provisions will still protect the student, and the District may not discriminate against the student on the basis of disability.
- Students With **Temporary Impairments:** A temporary impairment (typically one with an actual or expected duration of six months or less) does not constitute a disability under Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period. This determination must be made on a case-by-case basis with consideration of the actual or expected duration and the extent to which it actually limits a major life activity.

### **E. SECTION 504 ANNUAL REVIEWS**

The Section 504 team will conduct an annual review of each student's Section 504 Plan, generally within one year of the date of the Eligibility Determination Meeting or last Annual Review Meeting. During the Annual Review Meeting, the team will discuss the effectiveness of and the student's continued need for the special education or related aids and services currently provided in the Section 504 Plan. The Section 504 Plan will be updated by the team as warranted.

All Section 504 Plan services and supports listed on a student's Section 504 Plan must be designed to meet the student's needs in his/her current educational program. Any services and supports that are no longer warranted are removed and not included in the revised Section 504 Plan. All decisions to remove, add, or reject any services and supports are based on data, made by the student's Section 504 team, and explained in the Section 504 Plan document.

It should be noted that in many cases, the physical or mental impairment as identified through the Section 504 eligibility criteria review and the identified major life activity that is substantially limited by the identified impairment remain the same as determined at the last Eligibility Determination Meeting. If there are new data regarding changes in either the physical or mental impairment, major life activity determinations, or disability-based needs, the team should first review the data by conducting a reevaluation and completing a new Section 504 Eligibility report.

#### **F. SECTION 504 REEVALUATIONS**

A reevaluation for purposes of reestablishing eligibility for a Section 504 Plan must be held at least once every 3 years. Similar to the initial evaluation eligibility, the team may draw upon existing data and/or decide to conduct testing. If, after completing and compiling the data, the Section 504 team determines that the student remains eligible for a Section 504 Plan, the 504 Plan is revised as appropriate.

#### **G. TERMINATION OF SECTION 504 PLANS**

The Section 504 team must conduct a reevaluation before making any significant change in placement, including any determination that a student is no longer eligible for a Section 504 Plan and terminating the Plan. If the reevaluation reveals that the student's physical or mental impairment no longer exists or no longer "substantially limits" a major life activity, or that the student no longer needs special education or related aids and services, then the student is no longer eligible for a Section 504 Plan.

Parents should be provided with a copy of the Section 504 Eligibility report and the *Parents' Rights in Brief* at the conclusion of the meeting.

#### **H. REVOCATION OF CONSENT**

A parent/guardian may choose to revoke consent for their child's Section 504 Plan. In such cases, the parent/guardian will be given the *Revocation Of Consent & Prior Written Notice Of Termination Of Section 504 Services* letter.

## **I. ATHLETIC ELIGIBILITY AND EXTRACURRICULAR ACTIVITIES**

Students with disabilities will be afforded an equal opportunity to participate in the District's extracurricular and athletic activities as their nondisabled peers. The District will make an individualized inquiry to determine if there are reasonable modifications and/or necessary aids and services which would allow a student with a disability the chance to take part in the activity. Examples could include:

- Using a light along with a starter pistol so that a deaf runner can compete; or
- Providing for, or assisting with, the administration of needed medication like insulin so that a student with diabetes can take part in an after-school club.

The requirement to provide an equal opportunity does not mean:

- Changing essential elements that affect the fundamental nature of the activity;
- Giving a student with a disability an unfair advantage over other competitors;
- Change the nature of selective teams – students with disabilities have to compete with everyone else and legitimately earn their place on the team; or
- Compromising student safety.

## **J. College Entrance Exam Testing Accommodations**

Lemont High School authorizes extended time testing for classroom assessments, however it is the purview of the CollegeBoard and ACT to approve testing accommodations for State and National SAT and ACT assessments. To apply for accommodations, the 504 Case Manager must receive a parent/guardian signed release of information for either/or the CollegeBoard or ACT to share student disability information with the testing entity. Documentation beyond what is required to create school based testing accommodations may be required by the testing agency.

If a student wishes to revoke testing accommodations, written permission from the parent/guardian is required. Once testing accommodations are revoked with the CollegeBoard or ACT, reinstatement of the accommodations is not guaranteed.



### **PART III: SECTION 504 PLANS**

After determining eligibility, the Section 504 team is responsible for preparing a plan to ensure that the student with a disability has opportunities in the educational environment that are equal to that of his or her nondisabled peers and provides him/her with a FAPE. This may be in the context of physical accessibility, learning opportunities, testing situations, extracurricular sports/activities, and other aspects of the student's participation in the District's programs, services, and activities.

#### **A. ACCOMMODATIONS**

Accommodations deemed necessary by the team should be presumed to apply throughout the educational environment unless specified otherwise in the Section 504 Plan.

The need for a specific accommodation must relate to the area of the identified impairment and is based on data or other information that supports the need for the accommodation. In cases where an accommodation is requested without adequate data to support the need for the accommodation, the Section 504 team may decide to collect the necessary data and convene again to determine the need for the accommodation based on a review of data.

Accommodations should be clearly written and specific. For example, if a student's Section 504 Plan includes "preferential seating" as an accommodation, it should be specific as to whether that means that the teacher should seat the student near the teacher or the door, out of direct sunlight, etc.

#### **B. MODIFICATIONS**

Modifications are typically changes made to the learning standards and may involve the use of lower learning expectations than those for nondisabled peers. When the Section 504 team is considering the need for modifications, special consideration should be given to courses that may have a more appropriate level of pacing and instructional requirements in order to meet the needs of the student.

#### **C. RELATED AIDS AND SERVICES**

There is a difference in the provision of related services under *IDEA* and Section 504. Under *IDEA*, related services are provided if they are needed in order for a student to benefit from their special education. Under Section 504 a student may require a related service to assure equal access and the same educational opportunities as those provided to their nondisabled peers. Related services may include, but are not limited to, school health or nursing services, social work services, or occupational or physical therapy services.

Students who are evaluated and determined to be eligible for services under Section 504 must have a Section 504 Plan. If the Section 504 Team anticipates the need for a related service in order to assure a student with a disability's equal access and the same educational opportunities provided to nondisabled students, the appropriate related services staff must be consulted. Related services staff will conduct observations and functional evaluations as needed (with prior written parent consent), participate in the Section 504 Plan Meeting, Annual Review Meeting, or other meetings, provide training as appropriate to implement the recommended Section 504 supports, and consult with teachers regarding the student's access in the school environment as well as participation in all school activities.

#### **D. SPECIAL EDUCATION**

Section 504 Plans may include the provision of special education services. Such services may include the involvement of special education personnel in the regular education classroom or a separate classroom or setting. In such cases, the Section 504 team should give careful consideration to whether those services would be more appropriately provided under an Individualized Education Program (“IEP”) to meet the needs of an identified disability under the *Individuals with Disabilities Education Act*.

**PART IV: DISCIPLINE OF  
SECTION 504-PROTECTED STUDENTS WITH DISABILITIES**

**A. GENERAL SCHOOL RESPONSIBILITIES RELATED TO DISCIPLINE OF  
SECTION 504-PROTECTED STUDENTS**

Generally, the District may apply the same disciplinary rules and disciplinary consequences to all students, including students with disabilities, unless otherwise specified in a student's Section 504 Plan. For disciplinary consequences that constitute a significant change in placement, the Section 504 procedural safeguards and some special rules apply. In all cases, Section 504-protected students who are suspended or expelled will be afforded their procedural safeguards and have the opportunity to make up their schoolwork for equivalent academic credit.

**B. SUSPENSIONS FOR 10 DAYS OR LESS**

When suspending a student with a Section 504 Plan, school staff should follow suspension procedures used for nondisabled students, along with the aforementioned protections. Since Section 504 is first and foremost a non-discrimination law, imposing a harsher sanction than would be given to nondisabled peers under the same circumstances for the same misconduct is prohibited discrimination.

A student with a Section 504 Plan may be suspended for up to 10 days per school year, regardless of disability (days are cumulative per school year) but in accordance with the requirements of State law and Board policy. Educational services do not have to be provided to students with disabilities during the first 10 days of disciplinary removal if they are not provided to students without disabilities. A Manifestation Determination Meeting is not required for a suspension of less than 10 days (cumulative or consecutive). However, the District may elect to reconvene the student's Section 504 team during the suspension to determine if accommodations or other supports need to be adjusted or discontinued and/or if new accommodations or other supports are needed.

**C. SUSPENSIONS THAT TOTAL MORE THAN 10 SCHOOL DAYS IN A SCHOOL  
YEAR OR EXPULSION**

If any of the above disciplinary exclusions occur, the 504 team will conduct a Manifestation Determination ("MD") Meeting. The MD Meeting must be held no later than 10 school days after taking the disciplinary action. The parent/guardian will be provided advance notice of the meeting through a telephone call to notify him of her of the date, time, location, and purpose of the meeting. The telephone call will be followed by written notification of the meeting.

During the MD Meeting, the Section 504 team must answer the following two questions:

1. Is the misconduct in question caused by, or did it have a direct and substantial relationship to, the student's mental or physical impairment as identified in the student's Section 504 Plan; or
2. Is the misconduct in question a direct result of the school's failure to implement the Section 504 Plan?

The misconduct will be a manifestation of the student's disability if the Section 504 team makes the determination that *either* of the two criteria listed above are applicable for the student.

If the team determines the behavior is **not a manifestation of the student's disability**:

- The student may be disciplined as any other general education student; and
- The District may cease educational services during the periods of disciplinary removal that exceed 10 school days if nondisabled students in similar circumstances do not continue to receive educational services.

If the team determines the behavior **is a manifestation of the student's disability**:

- The suspension or expulsion will be terminated and the student will return to their educational program unless otherwise mutually agreed. The Section 504 team may consider any needed revisions to the student's Section 504 Plan. The team may consider the need for a Functional Behavioral Assessment (FBA) or changes to an existing Behavior Intervention Plan (BIP), if appropriate.
- The Section 504 team may also consider the need for a Section 504 reevaluation or an evaluation to determine eligibility for a referral for special education services/placement under the *IDEA*.
- The Section 504 team may consider other factors related to the safety of the student and others in the current setting and collaborate with the parents to make adjustments to the student's educational setting as appropriate.

Regardless of the outcome of the manifestation determination, the student will have an opportunity to make up schoolwork for equivalent academic credit.

Disciplinary removals that exceed a total of 10 school days during a school year may be considered a significant change in placement, necessitating the initiation of a reevaluation as described in Part II.

#### **D. DISCIPLINE OF SECTION 504-PROTECTED STUDENTS WHO USE DRUGS OR ALCOHOL**

Under Section 504, current untreated drug or alcohol use/abuse is not considered a disability. However, this exclusion does not extend to a student who:

- Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer in such use; or
- Is participating in a supervised rehabilitation program and no longer engaging in such use.

Conversely, a student currently engaging in the use/abuse of drugs or alcohol is not entitled to Section 504 protections, including a manifestation determination. The District may take disciplinary action pertaining to the use, possession, sale, or distribution of illegal drugs or alcohol against any student with a disability who currently is engaging in the illegal use of drugs or in the use of alcohol, to the same extent that such disciplinary action is taken against students who are not individuals with disabilities.

Use, possession, sale, or distribution of illegal drugs does not result in a loss of protections under Section 504 unless the student is currently using drugs. In such cases, a Manifestation Determination Meeting will be held.

## **PART V: COMPLAINT AND GRIEVANCE PROCEDURES**

### **A. INFORMAL RESOLUTION PROCESS**

If a parent/guardian, student, or employee is dissatisfied with the decisions of the Section 504 team regarding the identification, evaluation, and educational placement/program for a student with a disability, or believes the 504 Plan has not been implemented, or believes the student has been subject to discrimination (including, but not limited to, bullying, harassment, or intimidation) due to their disability, he/she may request a Section 504 review and informal resolution process by contacting the Section 504 Coordinator.

The Section 504 Coordinator or designee will conduct an internal review of the issue, which may include interviewing the complainant and witnesses. The findings and a proposed resolution, if any, will be completed within thirty (30) days of receipt of request for informal resolution, excluding any extenuating circumstances. Should the internal review indicate that prohibited actions occurred, the District will take steps to prevent the recurrence of any prohibited actions and to correct their effects on the complainant and others, as appropriate.

The informal resolution process is entirely optional, and its use is encouraged but not required prior to initiating an impartial due process hearing or complaint of discrimination as described in the Part.

### **B. IMPARTIAL DUE PROCESS HEARINGS**

#### *Right to Impartial Hearing:*

If a parent/guardian wishes to formally contest an action or failure to act by the District with regard to the identification, evaluation, or program/placement of a student with a disability under Section 504, or believes the Section 504 Plan has not been implemented, he/she may request a due process hearing before an Impartial Hearing Officer.

#### *Procedure to Request Impartial Hearing:*

The parent/guardian ("complainant") must submit a written request to the Section 504 Coordinator.

The request for an impartial hearing must include:

- The name of the student and their date of birth;
- Address of the student's residence;
- A description of the alleged action(s) or omission(s) regarding the student's Section 504 evaluation, eligibility determination, or placement/program that serve as the basis for the hearing request;
- The date(s) of the alleged action(s) or omission(s), if known; and
- A description of the resolution or action requested, if known.

Requests for impartial hearings must include all of the information described above in order for the request to be processed. Requests without all of this information will be returned to the

complainant for purposes of amendment to secure the missing information. The Section 504 Coordinator is available to assist parents/guardians in completing this form as needed.

*Appointment of Impartial Hearing Officer and Scheduling of Hearing:*

Upon receipt of the written request for an impartial Section 504 due process hearing, the Section 504 Coordinator or designee will appoint an Impartial Hearing Officer to conduct the hearing and issue a decision. This Hearing Officer will be secured by the District at no cost to the parent. The Hearing Officer will not be an employee of the District. The District's choice of an Impartial Hearing Officer is final.

In collaboration with the Hearing Officer, the District will secure a date and a time to conduct the impartial hearing. Every effort should be made to hold the impartial hearing at a mutually agreed-upon time and date and within 45 days after the date the *Request for Impartial Due Process Hearing, Section 504* was received by the District. Upon securing a date and time for the impartial hearing, the Section 504 Coordinator will notify the parent/guardian in writing of the hearing date, time, and location. The timeline for the hearing may be extended upon mutual agreement of the parties. The Hearing Officer is also empowered to extend the hearing time frame at his/her discretion.

*Pre-Hearing Conference:*

The Hearing Officer may order a pre-hearing conference with the parties. During this conference, the parent or his/her representative will state and clarify the issues to be addressed at the hearing. The pre-hearing conference can also serve to resolve preliminary matters, jurisdictional issues, and answer the parties' questions regarding the hearing process.

*Conduct of Hearing:*

Any party to an impartial Section 504 hearing has the right to:

- Be accompanied and advised by counsel or an individual with special knowledge or expertise;
- Present evidence and cross-examine witnesses;
- Obtain a written or electronic verbatim record of the hearing or obtain alternative forms of the verbatim record to be provided in the parent's native language;
- Obtain written or electronic findings of fact and decisions; and
- Seek judicial review of the Hearing Officer's decision.

The Hearing Officer may prohibit the introduction of repetitive or irrelevant evidence. The verbatim record of the hearing, when requested, and the written decision are provided to the parent at no cost.

*Hearing Decision:*

The Hearing Officer must issue a written decision within thirty (30) days of the completion of the hearing and/or the closing of the record. The Hearing Officer must confine his or her orders or rulings to those matters that involve the identification, evaluation, or placement of children under Section 504 and the provisions of the regulations implementing Section 504. This is the scope of the Hearing Officer's jurisdiction. Any party may raise objections or move to dismiss any claims that do not fall under Section 504.

In the absence of an appeal, the District will implement the decision of the Hearing Officer within 15 calendar days of the District's receipt of the decision.

*Appeal Rights:*

If either party is not satisfied by the final decision of the Hearing Officer, the party may seek review of the hearing decision in a court of competent jurisdiction.

**C. COMPLAINTS OF DISCRIMINATION – DISTRICT GRIEVANCE PROCEDURE**

The District's Board of Education has established Policy 2:260, Uniform Grievance Procedure, through which students, parents/guardians, employees, and other individuals can make complaints when they believe that their rights have been violated, including but not limited to complaints of discrimination under Section 504. A person who wants to avail him/herself of the Uniform Grievance Procedure may do so by filing a complaint with one of the District's Complaint Managers. Please refer to Policy 2:260, which is included in Appendix 3 and available on the District's website, for the contact information for the District's Complaint Managers and more information about the complaint investigation process.

**D. COMPLAINTS OF DISCRIMINATION – OFFICE FOR CIVIL RIGHTS (OCR)**

The District's Uniform Grievance Procedure referenced above does not preclude a parent/guardian, student, or other individual from filing a formal complaint of disability-based discrimination with the Office for Civil Rights at any time. The Office for Civil Rights is part of the U.S. Department of Education, and it handles complaints of disability-based discrimination (among other things) separately and independently of the District's impartial hearing and grievance process, and in accordance with the guidelines set forth in OCR's Complaint Resolution Manual.

Complaints of disability discrimination may be directed to OCR at:

**U.S. Department of Education  
Office for Civil Rights**  
John C. Kluczynski Federal Building  
230 S. Dearborn Street, 37<sup>th</sup> Floor  
Chicago, IL 60604  
Telephone: (312) 730-1560  
Facsimile: (312) 730-1576  
TDD: (800) 877-8339  
Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

**E. RETALIATION PROHIBITED**



The District prohibits retaliation against persons who request Section 504 evaluations or services or who initiate a due process hearing or a complaint of discrimination as described in this Part.