

KIRTLAND LOCAL SCHOOLS



Guidelines for Determining Service Eligibility Under Section 504 of the Rehabilitation Act of 1973

Revised March 2009; Revised January 2010; Revised June 2010; Revised November 2011
Board Adopted: August 30, 2010; December 12, 2011

**KIRTLAND LOCAL SCHOOLS
POLICY OF NON-DISCRIMINATION NOTICE**

The Kirtland Board of Education declares it to be the policy of this District to provide an equal opportunity for students to achieve their potential through the curriculum offered in this district regardless of race, color, creed, disability, religion, sex, ancestry, national origin, place of residence, or social or economic background.

If you have any questions regarding the District's non-discrimination policy, please contact the Director of Pupil Services who serves as the District's Compliance Officer (Karen Lanning, 9252 Chillicothe Rd., Kirtland, Ohio 44094) at 440-256-3360. If you would like a copy of the Board policy on non-discrimination, please contact the Compliance Officer and a copy will be provided.

Board Policy: 2260 Nondiscrimination and Access to Equal Educational Opportunity

Board Policy: 2260.01 Section 504/ADA and Prohibition Against Discrimination Based on Disability

INTRODUCTION

Section 504 of the Rehabilitation Act of 1973 (Section 504) has critical implications for students, parents and professional educators. Section 504 is enforced by the U.S. Department of Education's Office for Civil Rights (OCR). OCR's mission is to ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights.

As described more fully in these Guidelines, students suspected of having a disability under Section 504 are evaluated by a team of knowledgeable individuals. After assessing the student, a team which includes the student's parent(s), meets to determine if the student is eligible under Section 504. If the student is eligible, the team develops a Section 504 plan.

This program guide includes an explanation of Section 504 and its procedural requirements, a notice of student rights, due process considerations, a Section 504 overview for parents, and guidelines for program implementation. If you have questions about Section 504, please call the building principal or the Director of Pupil Services who serves as the District's Section 504 Compliance Officer.

KIRTLAND LOCAL SCHOOLS SECTION 504 AND IDEA

Section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act (IDEA) both provide services to students with disabilities; however, they do so in very different ways. Section 504 is a civil rights law that is designed to provide students with disabilities equal access to the educational programs/opportunities provided by the District. The IDEA is an education law that provides eligible students with specially designed instruction in order to enable them to make progress on the goals/objectives in their individual education programs (IEPs) and to have access to the general education curriculum as appropriate.

Students who are identified under the IDEA are also protected from discrimination by Section 504. Students who are identified as eligible for accommodations under Section 504 are not automatically eligible under the IDEA. Eligibility for services under the IDEA is determined by an individual evaluation that is conducted in accordance with the procedures established by the IDEA. These procedures are outlined in *Whose IDEA Is This?*, a resource guide published by the Ohio Department of Education. If you would like more information about IDEA or would like a copy of *Whose IDEA Is This?*, please contact the District's Director of Pupil Services.

KIRTLAND LOCAL SCHOOLS GUIDE TO SECTION 504

WHAT IS SECTION 504?

Section 504 is the section of the Rehabilitation Act of 1973, Public Law (P.L.) 93-112, which applies to persons with disabilities. It is a civil rights law that is designed to provide equal access to the school environment for individuals with disabilities. Section 504 prohibits organizations which receive federal funds from discriminating against otherwise qualified individuals solely on the basis of disability.

Section 504 requires schools to provide children with disabilities a Free Appropriate Public Education (FAPE) by providing a plan that will contain special and regular education and related aids and services necessary to provide the student with a FAPE. Section 504 is enforced by the U.S. Department of Education, Office for Civil Rights (OCR).

HOW DOES SECTION 504 DEFINE “HANDICAP”?¹

A person is considered “handicapped” if he/she has a physical or mental impairment which substantially limits one or more **major life activities**. Physical or mental impairments may include, but are not limited to: hearing impairment, visual impairment, orthopedic impairment, epilepsy, diabetes, chronic asthma, severe allergies, and attention deficit disorder.

WHAT IS A MAJOR LIFE ACTIVITY?

Major life activities include such things as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.

Major life activities also include the 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.

WHAT DOES “SUBSTANTIALLY LIMIT” MEAN?

Section 504 does not provide a definition for the term “substantially limit”. As a result, the decision whether a condition creates a substantial limitation is made on a case-by-case basis by a team of knowledgeable individuals, including the student’s parent(s).

¹ Within this document, the terms handicap and disability are used interchangeably. Section 504 utilizes the term handicap while the IDEA uses the term disability. As the accepted term for identifying an individual protected by either Section 504 or the IDEA’s “student with a disability” this term will also be used.

WHAT IS A FREE APPROPRIATE PUBLIC EDUCATION?

School districts that receive federal funds must develop a plan that will contain special and regular education and related aids and services necessary to provide the student with a FAPE. Accommodations are determined on a case-by-case basis depending on the individual's needs. Accommodations must be necessary in order to allow a disabled individual to access the district's programs in the same manner as a non-disabled individual.

In order to determine whether a student is eligible for a plan under Section 504, school districts must conduct an evaluation. The scope of the evaluation will be determined by individuals such as teachers, guidance counselors, school psychologists and the student's parent. An evaluation may include the administration of standardized assessments, observations or a review of the student's educational records. An evaluation cannot be conducted without written consent from the student's parent. In the event that a parent refuses to consent to an evaluation, the evaluation will not be conducted.

If a parent requests that a student be evaluated to determine eligibility under Section 504, the school district can either conduct the evaluation (with written parental consent) or refuse to conduct the evaluation. In the event that the school district refuses to conduct the evaluation, it must provide the student's parent with written notice of its decision not to evaluate the student. Regardless of whether a student is or is not evaluated, the district must provide parents/guardians information about available procedural safeguards.

Students who are found eligible for a plan under Section 504 (as discussed below) must be re-evaluated periodically. Section 504 does not provide a specific timeframe for re-evaluations. However, in most cases, a re-evaluation will be conducted every three years. A re-evaluation will also be conducted if warranted by significant changes in the student's learning, behavior or medical condition.

WHAT HAPPENS AFTER AN EVALUATION?

After a student has been evaluated, a team of educators and the student's parent(s) meet to determine whether the student is eligible for accommodations under Section 504. In other words, the team meets to determine whether the student has a physical or mental impairment that substantially limits one or more of his/her major life activities. In making this decision, the team must consider the student without regard to the corrected effects of any measures that relieve or lessen the disability such as: the use of medication; assistive technology; special and regular education and related aids and services; or learned behavioral or adaptive neurological modification. The corrective effects of any measures that relieve or lessen the disability of ordinary glasses or contact lenses shall be considered in determining whether impairment substantially limits a major life activity.

If the team determines that the student does not have a substantial limitation of a major life activity, no further action is taken (although the student could receive assistance through the intervention assistance team). If the team determines that there is a substantial limitation of a major life activity, in other words, that the student is eligible under Section 504, a Section 504 Plan is developed. The Section 504 Plan is a written plan that lists the accommodations the student will receive and which staff members from the district will be responsible for providing the accommodations. Regardless of whether a student receives a Section 504 Plan or not, the district must provide parents/guardians information about available procedural safeguards. Students have a right to periodic reevaluations, generally every three years. The student is also entitled to a reevaluation prior to a significant change in placement.

WHAT IF THERE IS DISAGREEMENT?

If the members of the team from the district and the student's parent(s) do not agree about either the student's eligibility under Section 504 or with the accommodations included in the Section 504 plan, the district will provide the parent(s) with written notice that documents the disagreement. The district will also provide information on the procedural safeguards available to the parent(s)/student, including the right to request an impartial due process hearing. The parent(s) will then decide whether he/she wishes to challenge the district's decision using the available procedural safeguards.

**KIRTLAND LOCAL SCHOOLS
GUIDELINES FOR DETERMINING SERVICE ELIGIBILITY**

SECTION 504 EVALUATION PROCESS

When a referral is made because a student is suspected of having a disability that may qualify under Section 504, a building level team will start the referral process.

1. If consent is provided, the student will be evaluated. The evaluation may include the administration of standardized assessments, observations, review of educational records, review of response to interventions, etc. The district may also request but does not require that the parent(s) provide information from the child's physician depending on the nature of the suspected disability.
2. When the evaluation is completed, the team (including the parent(s)) will meet to review the data and assessments to determine whether the child is eligible under Section 504. To be eligible under Section 504, the child must have a physical or mental impairment that substantially limits one or more of his/her major life activities.
3. If there is not a substantial impairment of a major life activity, the student will not be eligible for accommodations under a Section 504 plan. The student may continue to receive interventions through the IAT process.
4. If there is a substantial impairment of a major life activity and accommodations in the school setting are necessary to allow the child equal access to the curriculum, a Section 504 Plan listing the necessary accommodations will be developed. This plan will be developed by a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options.
5. A copy of the student's Section 504 Plan will be provided to the student's teachers and other staff members who are responsible for the implementation of the plan. A copy will also be provided to the student's parent(s). The original signed Section 504 plan will be maintained in the student's file.
6. The parent(s) will receive notice of their procedural safeguards when any action is taken related to a student's identification, evaluation, or placement.
7. If there is disagreement between the parent(s) and the district at any point in this process (e.g., eligibility, contents of Section 504 Plan, etc.), the district will send written documentation of the disagreement to the parent. As mentioned in #6, the parent(s) will be provided with a copy of their procedural safeguards, regardless of whether there is a disagreement. Parents have the right to request an impartial due process hearing.
8. The student's Section 504 Plan will be reviewed and revised (if necessary) on an annual basis.
9. Students have a right to periodic reevaluations, generally every three years. The student is also entitled to a reevaluation prior to a significant change in placement.

KIRTLAND LOCAL SCHOOLS
SECTION 504 PARENT/CHILD RIGHTS AND PROCEDURAL SAFEGUARDS:

The following is a list of procedural safeguards that outlines the rights granted to students with disabilities and their parent(s) under Section 504 of the Federal Rehabilitation Act of 1973 and their parents.

1. Your child has a right to take part in and receive benefits from public education programs without discrimination based on a disability.
2. You have the right to receive written notice prior to any action by the district in regard to the identification, evaluation, or placement of your child. You will be afforded a meaningful opportunity to provide input into the evaluation and placement decisions.
3. Your child has a right to an evaluation prior to the development of an initial Section 504 plan and any subsequent significant change in placement. Your child is eligible for a free appropriate public education under Section 504 of The Rehabilitation Act of 1973 if the Section 504 Team determines that your child has a physical or mental impairment that substantially limits one or more major life activities, including the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of the student as adequately as the needs of students without disabilities are met and that are based upon adherence to Section 504's procedural requirements. Major life activities include, but are not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating, working, and learning, or the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, or endocrine functions. This list is not exhaustive. Students who are regarded as or have a record of a disability are protected from discrimination / harassment, but are not considered students with disabilities potentially eligible for a Section 504 Plan.
4. The district shall consider information from a variety of sources, including (as appropriate) but not limited to aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, adaptive behavior, medical reports, student grades, progress reports, parent observations, anecdotal reports, and test scores when making eligibility, educational, and placement decisions under Section 504. Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel.
5. Eligibility decisions must be made by a group of persons knowledgeable about your child, the meaning of the evaluation data, and the placement options.
6. If eligible as disabled under Section 504, your child has a right to periodic reevaluations, generally every three years. The student is also entitled to a reevaluation prior to a significant change in placement.
7. Your child has the right to a free appropriate public education ("FAPE"), meaning the provision of education and related services without cost to the person with a disability or his or her parents or guardians except for those fees that are imposed equally on non-disabled students or their parents.
8. Your child has a right to access facilities, services, and activities that are comparable to those provided for non-disabled students.
9. You have the right to examine educational records of your child and obtain copies at a reasonable cost that is charged to all individuals requesting such records.
10. With respect to actions regarding the identification, evaluation, or educational placement of your child under Section 504, you have the right to notice, an opportunity to examine relevant records, an impartial hearing with opportunity for participation by you and representation by counsel, and a review procedure.
11. You have the right to file a complaint of disability discrimination pursuant to the district's grievance procedure which will be investigated by a district employee. The Superintendent may appoint a designee if the compliance officer is alleged to be involved in the discrimination. The written grievance should be sent to the district's Section 504 Compliance Officer, Director of Pupil Services at 9252 Chillicothe Rd., Kirtland, Ohio 44094, within 30 calendar days of the discrimination.
12. Parents have the right to challenge any determination regarding identification, evaluation, and placement by requesting an impartial due process hearing. The hearing will be conducted by an impartial hearing officer who is not an employee of the district. The parents will have the opportunity to attend the hearing and be represented by counsel. You also have the right to access any relevant records. If you disagree with the decision of the impartial hearing officer, you have a right to a review of that decision by a court of competent jurisdiction.
13. You have the right to file a complaint with the United States Department of Education Office for Civil Rights (OCR) at any time. OCR may be contacted at 600 Superior Avenue, East, Suite 750, Cleveland, Ohio 44114-2611.

**KIRTLAND LOCAL SCHOOLS
NOTICE OF DUE PROCESS PROCEDURES UNDER
SECTION 504 OF THE REHABILITATION ACT OF 1973**

In the event that the parent(s) or guardian(s) challenge the decisions of the school district regarding the identification, evaluation or placement of his/her child, the following procedures are to be used:

1. You may request a Section 504 impartial due process hearing by submitting a written request to the Director of Pupil Services within twenty-one (21) business days.
2. If a request for a due process hearing is filed, the district will appoint an individual to serve as the impartial hearing officer for the proceeding. The impartial hearing officer will schedule a hearing which will commence no later than thirty (30) business days after the impartial hearing officer's appointment. This timeline may be extended by the impartial hearing officer at the request of either party. You may choose to be represented by an attorney at the due process hearing.
3. The impartial hearing officer will issue a written decision to the parent and the district within thirty (30) business days of the conclusion of the due process hearing. This timeline may be extended by the impartial hearing officer at the request of either party.
4. Any party aggrieved by the findings and decision of the impartial hearing officer may appeal the decision to a court of competent jurisdiction within the timelines proscribed by law.

Kirtland Local School District
SECTION 504 GRIEVANCE FILING FORM

Date ____/____/____

Name of Aggrieved Person _____ D.O.B.: _____

Address _____ School _____

Parent's Name (print) _____

Home Phone _____ Cell Phone _____ Work Phone _____

Email _____

Nature of your grievance: (Please describe the policy or action you believe may be in violation of Section 504. Please also identify any person(s) you believe may be responsible.)

If others are affected by the possible violation, please give their names and/or positions:

Signature of Grieving Party _____ Date ____/____/____

**THIS FORM SHOULD BE SENT WITHIN 30 DAYS OF THE
ALLEGED VIOLATION TO:**

Director of Pupil Services, Section 504 Compliance Officer
Kirtland Local Schools
9252 Chillicothe Road
Kirtland, Ohio 44094

Board of Education Use Only

Person Receiving Grievance: _____ Date ____/____/____