

SECTION 504-NONDISCRIMINATION ON THE BASIS OF DISABILITY

To fulfill its obligations under this law, the School District of New Berlin will permit no discrimination against any person with a disability in any of the programs, services, and practices within the system.

(Note: Section 504 defines disability as does the Americans with Disabilities Act Amendment Act (ADAAA). However, although some terminology is similar, Section 504 differs from the Individuals with Disabilities Improvement Act (commonly referred to as IDEA) in areas that will be subsequently addressed in this policy.)

Section 504 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; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

To ensure compliance with this statute, the District shall:

1. Prohibit discrimination against qualified persons with disabilities in any respect of school district employment solely on the basis of handicap.
2. Make reasonable accommodations in order that facilities, programs, and activities are accessible, usable, and open to persons with disabilities including parents/guardians of students enrolled in the District.
3. Ensure that students who may have disabilities are identified, evaluated and provided with appropriate educational services.
4. Provide a Free Appropriate Public Education (FAPE), including academic, nonacademic, and extracurricular services and activities to all students identified as disabled under Section 504 who are enrolled in the School District of New Berlin.
5. Prohibit the exclusion of any qualified person with disabilities solely on the basis of disability from participation in any District-sponsored program, activity, or benefit.
6. Not base eligibility on the effects of mitigating circumstances except for the provision of eyeglasses.

SECTION 504 and IDEA

Although similarities and differences will be referred to throughout this rule, it should be noted that all students identified as disabled under IDEA are considered disabled under Section 504. The reverse, however, is not necessarily the case. Students who are regarded as disabled under Section 504 may not qualify as disabled under 504 because of differing definitions and intent of each law.

RESPONSIBILITY FOR 504

Unlike IDEA, Section 504 is not a special education law *per se* nor does the District receive entitlement funds for services provided to persons eligible under Section 504; therefore, funding for Section 504 is the responsibility of the general education system. In addition, whereas the IDEA is structured to provide progress in the general curriculum, Section 504 accommodations are to be designed to neutralize the effects of the disability and provide access to the general curriculum.

The Director of Student Services will serve as the District's Section 504/ADAAA Coordinator and will oversee the District's compliance with Section 504 regulations. Each building administrator will serve as the individual 504/ADAAA building contact. Specific information, including names, phone numbers, mailing and email addresses will be available on the District's website as well as in appropriate publications.

STUDENT REFERRAL/EVALUATION PROCEDURE

1. A parent, school staff member, or other person with knowledge of the child may refer a student for a Section 504 evaluation. If a staff member suspects that a child may have a disability under Section 504, referral is required. The series of standardized forms developed by the District will be used throughout this process.
2. The District will adhere to applicable timelines under IDEA.
3. The referring party is to complete the Section 504 Referral Form and submit it to the building principal. Parents or other non-school persons may request and receive assistance in completing forms.
4. The building principal or designee will appoint appropriate members to the 504 Team including individuals knowledgeable about the student, educational implications of evaluations, and resources of the District.
5. Parents/Guardians will be notified in writing of the referral and of their due process rights under Section 504.
6. Parents/Guardians will also be consulted (with other members of the team) to determine if additional testing is required. If such testing is deemed necessary, written consent will be obtained.
7. The building principal or designee will contact the parents/guardians to establish a mutually agreeable time and date for the Section 504 Team meeting to determine eligibility.
8. If the student is found not eligible, parents/guardians will be provided appeal rights. However, no services would be provided until any appeal is completed unless the District is so directed by legal authority.
9. If the student is found eligible, appropriate accommodations and services will be determined and documented as per an Individual Accommodation Plan (IAP). Services for eligible students will be initiated only after parental consent for services has been obtained.
10. All District staff associated with or in anyway responsible for the student's educational provisions will be informed of their involvement and responsibility.
11. The building principal or designee will assign a staff member to serve as the student's case manager. The case manager is responsible for maintaining records, monitoring the IAP, and scheduling necessary meetings to discuss the student's program provisions including an annual review and triennial reevaluation.
12. All records will be maintained in a location accessible by parents/guardians and appropriate staff and will be placed in the student's electronic record within three days of the creation of the record.
13. The Section 504 Team will review the IAP as necessary, but at least annually. In addition, the student will be reevaluated at least every three years to determine continued eligibility.
14. Records for students transferring into the District will be reviewed for disability status. If a current IAP exists for a given student, or if it is indicated the student may have a 504 disability, the building principal or designee will initiate a review or referral as appropriate.
15. If a parent/guardian requests information regarding a Section 504 due process hearing, staff are to direct the parent/guardian to the Director of Student Services. The staff member receiving the request should ensure the parent is provided with the appropriate rights and procedure information no later than the end of the next school day.

COMPLAINT/GRIEVANCE PROCEDURE

Any person who believes the District or any of the District's staff have inadequately applied the regulations of (1) Title VI of the Civil Rights Act of 1964; (2) Title IX of the Education Amendment of 1972; (3) Section 504 of the Rehabilitation Act of 1973; or (4) Americans with Disabilities Act Amendments Act may bring forward a complaint to the District 504 Coordinator. (Note: Complaints can be made directly to the Office for Civil Rights without going through the procedures.)

Upon request, the District 504 Coordinator will provide a copy of the District's procedure and investigate all complaints in accordance with said procedure. Steps of this procedure are as follows:

1. A written statement of the complaint signed by the complainant shall be submitted to the District Section 504/ADA Coordinator within ten (10) business days of receipt of answers to the complaint. The Coordinator shall investigate the issues arising from the grievance and reply in writing to the complainant within 10 business days.
2. If the complainant decides to appeal the decision of the Coordinator, the "Impartial Due Process Hearing Procedure will be invoked.
3. The complainant may file a complaint with the Office for Civil Rights at any time before or during the grievance procedure. Contact information is as follows:

Office for Civil Rights, Region V
U.S. Department of Health and Human Services
233 N. Michigan Ave., Suite 240
Chicago, IL 60601
Voice Phone: 312-886-2359
Fax: 312-886-1807
TDD: 312-353-5693

LEGAL REFERENCES:

Section 504 of the Vocational Rehabilitation Act of 1973
Individuals with Disabilities Education Improvement Act of 2004
Americans with Disabilities Act Amendment Act, 2011
Title IX, Education Amendments of 1972
Title VI, Civil Rights Act of 1964
Wisconsin Statutes, Sections 111.31, 111.34, 118.13, 119.195

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