

PIKE COUNTY/WAVERLY CITY SCHOOLS

POLICY STATEMENT

1999

*SECTION 504 OF THE
REHABILITATION ACT OF 1973*

Non Discrimination

It is the policy of the Pike County/Waverly City Schools to provide a free and appropriate public education to each student with a disability within its jurisdiction, regardless of the nature or severity of the disability.

It is the intent of the district to ensure that students who are disabled within the definition of Section 504 of the Rehabilitation Act of 1973 are identified, evaluated and provided with appropriate educational services. Students may be disabled under this policy even though they do not require services pursuant to the Individuals with Disabilities Education Act (IDEA). Due process rights of students with disabilities and their parents under Section 504 will be enforced. The Superintendent or designee is the coordinator of Section 504 activities.

Definitions

Evaluation - a process whereby data are collected from relevant sources and analyzed to determine a child's current level of functioning. Some of the procedures which may be applied in the process of evaluation include review of records, observation, interviews, completion of checklists or rating scales, and testing.

IDEA - Federal law which requires all state and local school districts to make a free appropriate public education available to all children who have been found, through multifactor evaluation, to meet the established criteria as handicapped under one of thirteen areas of disability. This law also provides for due process to protect the rights of handicapped children and their parents.

Intervention Assistance Team - an intervention assistance team is a problem-solving, building level team of professionals who assist teachers to develop intervention strategies for dealing with the learning, social, and behavioral needs of students. In addition to the classroom teacher, the team may include the principal, other teachers, counselor, school psychologist, support staff, school nurse, and parents.

Multifactor evaluation - an evaluation, conducted by a team of professionals from different areas of expertise, which assesses more than one area of a child's functioning in order to determine whether or not the child is eligible for Individuals with Disabilities Education Act services.

Section 504 of the Rehabilitation Act of 1973 - Federal law which prohibits discrimination on the basis of handicap by recipients of Federal funds. This law is implemented through the requirement that free appropriate public education and due process rights are provided to each eligible handicapped child. Appropriate education under Section 504 can consist of either regular education or special education and related aides and services.

Eligibility

Section 504 of the Rehabilitation Act of 1973 is a federal law which prohibits discrimination against persons with a handicap in any program receiving federal financial assistance. The Act defines a person with a handicap as anyone who:

1. Has a mental or physical impairment which substantially limits one or more major life activity (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 an impairment; or
3. Is regarded as having such an impairment.

Procedure for Serving Students with Disabilities Under Section 504, Rehabilitation Act of 1973

When a student, parent, teacher, counselor, or administrator believe they are observing in another student substantially limited performance in one or more major life activities (e.g., in school, generally academic effort and performance) that is believed to be caused by a physical or mental impairment. The concerned individual completes Request for "504" Services and submits the Request for "504" Services to the Building Principal. The Building Principal convenes a Multi Disciplinary Team (MDT). The MDT reviews the Request for "504" Services. Based on the information in the Request for "504" Services, the MDT determines whether or not there is a suspected disability under Section 504. The school district provides the parent/guardian with a copy of the Section 504 rights when a disability is suspected. If further information is needed, the school district provides notice to parents for evaluation and requests their consent. The School District will also request consent for mutual exchange of information from parent/guardian as appropriate. The next step is to conduct all evaluations the MDT deems appropriate. The MDT convenes to review all evaluation/observation results. The MDT determines student eligibility under Section 504. The MDT will document the meeting. The MDT composition may vary according to the needs of the student. The MDT completes a written Notice of Section 504 Eligibility. If eligibility under Section 504 is established, an Accommodation Plan is developed. This plan is to be developed by a professional team. The educational services are implemented as outlined in the student accommodation plan. The student accommodation plan is to be reviewed by the team periodically.

Section 504 requires "periodic" re-evaluations. There is no specified time frame. Additionally, Section 504 requires a re-evaluation before any significant change in placement. 34 CFR 104.35(d) Examples of Significant changes in placement which require re-evaluation include: expulsion, serial suspensions which exceed ten calendar days, transfer of a student to home instruction, graduation from high school, or significant change in the delivery of education (e.g. moving the student from regular education to the resource room)

The student's placement cannot be changed as a result of disciplinary action unless the 504 committee first conducts a manifestation determination to assess whether or not the student's disability was not related to his/her behavior or an inappropriate placement. Any form of exclusions from the student's normal educational setting for more than 10 days constitutes a change in placement.

Parents' Rights under Section 504

1. Right to file a grievance with the school district over an alleged violation of Section 504 regulations.

2. Right to have an evaluation that draws on information from a variety of sources.
3. Right to be informed of any proposed actions related to eligibility and plan for services.
4. Right to examine all relevant records.
5. Right to receive all information in the parent's/guardian's native language and primary mode of communication.
6. Right to periodic reevaluations and an evaluation before any significant change in program or modification of service.
7. Right to an impartial hearing if there is disagreement with the school district's proposed action.
8. Right to be represented by counsel in the impartial hearing process.
9. Right to appeal the impartial hearing officer's decision.

Process for Resolving Disagreements

GRIEVANCE PROCEDURE

Pike County/Waverly City Schools has adopted internal grievance procedure providing for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 (Section 504) or Title 11 of the Americans with Disabilities Act (Title 11). Both Section 504 and Title 11 prohibit discrimination on the basis of disability.

Complaints should be addressed to: Building Principal who has been designated to coordinate Section 504/Title 11 compliance efforts.

1. A complaint must be filed in writing, contain the name and address of the person filing it, briefly describe the alleged discriminatory action, and identify the date the action occurred and the name(s) of the person(s) responsible.
2. A complaint must be filed within thirty (30) calendar days after complainant becomes aware of the alleged discrimination. (Processing of allegations of discrimination which occurred before this grievance procedure was in place will be considered on a case-by-case basis.)
3. Unless the matter can be promptly resolved informally, an investigation will be conducted with respect to all timely filed complaints which raise issues under Section 504 and/or Title 11. The investigation shall be conducted by Building Principal. These rules contemplate informal but thorough and impartial investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.
4. A written determination as to the validity of the complaint and a description of the resolution, if any, shall be issued by Building Principal and a copy forwarded to the complainant no later than ninety (90) school days after its filing.
5. The Section 504/Title 11 coordinator shall maintain the files and records of the Local Education Agency where Complainant resides relating to the complaints filed.

6. The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made within thirty (30) calendar days to the District of Residence Local Superintendent.
7. The right of a person to a prompt and equitable resolution of the complaint filed thereunder shall not be impaired by the person's pursuit of other remedies such as the filing of a Section 504 or Title 11 complaint with the responsible federal department or agency. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.
8. These rules shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards, and to assure that Local Education Agency complies with Section 504, Title 11, and their implementing regulations.

Due Process

In the event that parents challenge the actions of the school team regarding identification, evaluation, or placement of their child, the district provides due process for resolving the dispute. At any time, parents may choose to obtain a second opinion evaluation, at the parents' expense.

The parents may request, in writing, a review of the case by the school district superintendent. Any request for a review should be made within ten (10) of the school official's action which is in dispute or as soon as practicable, to insure a prompt resolution of any dispute. The request for a review should be submitted in writing to the superintendent and shall specify the issues to be resolved and the relief sought. Within thirty (30) days of receipt of the parents' written request, the superintendent will schedule a case review. The parents may examine relevant records prior to the case review, and they may choose to be represented by counsel at the review. The superintendent's decision will be rendered in writing to the parents within fourteen (14) days of the conclusion of the case review.

If the parents disagree with the superintendent's decision, they may request in writing to the superintendent an impartial hearing. The hearing will be held at the parties' earliest convenience before an impartial hearing officer designated by the superintendent. The parents may choose to be represented by counsel at the hearing. The impartial hearing officer will issue a written determination within a reasonable time not exceed ninety (90) days from the superintendent's receipt of the request unless extended by mutual agreement. The impartial hearing officer's decision may be appealed by either party with notice to the other party within thirty (30) days. The school district will appoint a review officer to review the decision.

If a due process hearing has been requested under the Individuals With Disabilities Act (IDEA) or Ohio Revised Code Chapter 3323, a hearing officer qualified as to the IDEA/Ch. 3323 proceeding may preside in a joint hearing for IDEA/Ch. 3323 and Section 504. The issues for either IDEA/Ch. 3323 or Section 504 determination shall be clearly defined at the outset, and determinations by the hearing officer will be separate and distinct.

