

## SECTION 504 REGULATION

The purpose of these regulations and procedures is to carry out the policy of the Board of Education of the Wayne Central School District to provide a free and appropriate public education to all disabled students regardless of the type of disability or its severity. Wayne Central School District does not discriminate against persons with disabilities in accordance with § 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA).

Students who are disabled consistent with the definitions set forth in §504 and the ADA will be identified, evaluated, and provided with appropriate instruction, educational services and accommodations. The acts define a person with disability as anyone who “has mental or physical impairment which *substantially limits* one or more major life activities; has a record of such impairment; or is regarded as having such an impairment. Major life activities include activities such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.”

It should be clearly understood by all parties that evaluating and providing specialized education, related services or aids to students under §504/ADA is a separate and distinct process from when a student is suspected of being disabled under the Individuals with Disabilities Act (IDEA). When it is suspected that a student has a disability and is in need of special education and related services under IDEA, that student should be referred directly to the Committee on Special Education. However, some students with disabilities that do not require special education and related services may receive accommodations under §504/ADA. Students who qualify for §504/ADA should be referred to the principal of the building they attend.

### ***Compliance Officer***

The Wayne Central School District will appoint a §504 Compliance Officer who will have the overall responsibility for issuing compliance with §504/ADA regulations. The Compliance Officer for the district is the Director of Student Services who may be reached at the district office located in the high school building on Ontario Center Road in Ontario Center.

### ***Notice***

A copy of Policy 5020.3 shall be included annually in (1) the school district’s community-calendar (2) in each employee and student handbook, and (3) provided to each family new to the school district at the time of their registration.

### ***Identification and Referral***

- 1.1 The building principal will insure that typical school records are reviewed to determine whether a student has a history of a physical or mental impairment or is regarded as having such an impairment which substantially limits one or more major life activities. This occurs when teachers and others routinely review records in the day to day activities of the school.
- 1.2 Typical school records which may be reviewed include Early Start. Kindergarten screening results, new entrant screening results, reports from classroom teachers, routine physical examinations, reports from outside agencies, parent conferences, state testing results, reports from private physicians and the like.
- 1.3 If after a review of the records, it is suspected that a student may be disabled and may require special education and related services, that student should be referred to the Committee on Special Education (CSE). If it is suspected that the student may be impaired but may not require special education and related services, that student shall be referred to the principal in order to initiate an evaluation under §504. (The CSE may act as the 504 Team and develop a 504 Accommodation Plan at the CSE meeting. (See item 2.7 below)).

- 1.4 At any point that a parent, eligible staff member or student suspects a disabling condition, a referral may be made to the CSE for consideration under IDEA or to the 504 Team (CSE) for consideration under §504.
- 1.5 The 504 referral should be made in writing utilizing the form provided by the school district.
- 1.6 Upon receipt of the 504 referral form, the principal or his/her designee will notify the parents. The notification will include a copy of the due process procedures and a parental consent for evaluation.
- 1.7 If the parent (or student over age 18) does not give consent for evaluation within ten (10) days of notice, the principal will insure that the appropriate due process notices were received by the parents. If consent is not received, the district may commence an impartial hearing to override the failure to obtain consent, or may refer the student to the building pupil personnel services (PPS) team for consideration.
- 1.8 If consent is received, the principal will direct the building staff to conduct an assessment, the results of which will be forwarded to the 504 Team.

### ***Evaluation and Determination***

- 2.1 A student referred under regulations of §504 will receive a multidisciplinary evaluation through the 504 Team. Persons on the team will include those persons qualified to administer and interpret the evaluation material.
- 2.2 Tests selected for use in evaluation will have been validated for the purposes for which they are used. Tests and other assessment instruments and materials will include those tailored to assess educational need rather than a single intelligence quotient or medical diagnostic label. Evaluation methods shall seek to accommodate disabilities that may impair the student's capacity to be evaluated.
- 2.2 Upon completion of the assessment, the 504 Team will meet to consider the results of the assessment and a determination. Persons on the team will be knowledgeable about the evaluation data and its meaning, currently teaching or providing instructional services to the student, and knowledgeable of decisions. The team will carefully consider information from a variety of sources including aptitude and achievement tests, teacher accommodations, and physical condition of the student, social cultural background, and adaptive behavior if appropriate. The team will be comprised of a minimum of three people in addition to the parent/guardian and student (when appropriate). Members of the CSE may constitute the 504 Team.
- 2.4 The parent/legal guardian and student (when appropriate) will be invited to participate in the 504 team meeting. A standard invitation form will be used, which includes the parent/student due process rights. Other parties who are knowledgeable about the student's educational needs may participate in the meeting at the request of the parent/student or the school. If the parent/legal guardian and/or the student do not attend the meeting, the team may proceed with the necessary deliberations and decisions.
- 2.5 The 504 Team will document the results of the meeting. The determination of the team will indicate whether the student is disabled under 504/ADA. If the student is eligible and in need of accommodations, these accommodations will be noted on the 504 Accommodation Plan. Accommodations could include, but are not limited to, specialized equipment, architectural, instructional, non-academic, extracurricular, and/or physical plant modifications.

*NOTE:* If the student with a disability requires special education and/or special education related services to receive an appropriate education, the student must be referred to the CSE.

- 2.6 The evaluation, findings and determinations of the 504 Team will be completed within thirty (30) days from the consent for the evaluation. This time requirement may be extended by written agreement of both parties.
- 2.7 If the CSE has determined that a student has a disability but does not need special education and related services under I/D/E/A, the CSE may act as the 504 Team and may develop a 504 Accommodation Plan, which will be forwarded to the building principal for implementation.

### ***The 504 Accommodation Plan and Implementation***

- 3.1 The 504 Accommodation Plan is the vehicle used to document the modifications to meet the needs of the student. The plan will include the following components:
  - a. A description of the specialized equipment, architectural, instructional, nonacademic, extracurricular, or physical plant modifications, and/or other supplementary aids and services;
  - b. The beginning and ending dates of accommodations, services and/or adaptations;
  - c. Assurances that all accommodations, services, and/or adaptations are provided with non-disabled students to the maximum extent appropriate;
  - d. Set the date that the plan will be reviewed;
  - e. Written consent of the parent and/or student, if appropriate, is required prior to implementing the 504 Plan. If consent is not received, the district may initiate an impartial hearing to override the failure to obtain consent or may refer the student to the building's PPS team for consideration;
  - f. Names and titles of the participants in the development of the 504 Plan.
- 3.2 The 504 Accommodation Plan will be sent to the district's 504 Compliance Officer who will assure that the plan is consistent with the district's obligation pursuant to §504/ADA. The 504 Compliance Officer will reconvene the 504 Team within five days to develop a new Plan with the Compliance Officer in attendance if the initially submitted 504 Plan is not consistent with these obligations. In addition, the 504 Compliance Officer may refer the student to the CSE if it is believed that the student requires special education and related services in order to receive an appropriate education.
- 3.3 The 504 Accommodation Plan will be implemented within seven (7) days following submission to the 504 Compliance Officer.

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- 3.4 The Compliance Officer will insure that the determination of the 504 Team, including the 504 Accommodation Plan, are communicated to the parent/student and that a copy is mailed to the parent/student. A copy of *Due Process Rights* (see 5020.3-E.2) will be included. The Compliance Officer will insure that all policies and procedures to pursue mediation or respond to impartial hearing requests are followed in the event that the parent/ student disagrees with or does not give consent for the Plan. In such cases. the principal will notify the 504 Compliance Officer of these proceedings in writing.

### ***Review and Implementation***

- 4.1 Accommodation Plans will be reviewed when a student is moving from elementary to middle school, middle school to high school, and in the final semester of anticipated completion of diploma requirements. Other review requests may be submitted in writing to the building principal or the 504 Compliance Officer by persons defined in §200.4 of the NYS Commissioner's Regulations. The 504 Compliance Officer will notify the 504 Team of the need to reconvene within twenty (20) days of the receipt for review.
- 4.2 A student identified under §504 will be re-evaluated periodically, and prior to any significant change of placement.

### ***Parent and Student Rights Under §504***

- 5.1 The principal will be familiar with all due process rights of the parent/student. These are clearly stated in the Parent/Student Rights Notice.
- 5.2 The due process rights referred to in the document above will include:
- a. Parent/student notice will be provided
    - before the school identifies, assesses, or places a student requiring accommodation due to a disability;
    - before changes in identification, assessment, or placement are made;
  - b. Written consent will be sought from the parent, or the student if over age 18, before the school will conduct an evaluation.
    - If consent is not received, the district may initiate an impartial hearing to override the failure to obtain consent.
    - Written consent also will be sought before the implementation of a 504 Accommodation Plan.
  - c. An individualized evaluation will be conducted before the student can receive accommodations.
  - d. The student will be educated, to the maximum extent appropriate, with students who are not disabled.
  - e. The student's placement must be reviewed consistent with the date specified on the 504 Accommodation Plan.
  - f. Parent/student has the right to inspect the student's records and receive, upon request, a list of the types of education records kept on the student, where they are maintained, and how to gain access to them.
  - g. The confidentiality of the student's education records will be protected in accordance with the Family Education Rights and Privacy Act (FERPA).
  - h. The parent has the right to mediation and/or an impartial hearing before an impartial hearing officer regarding any matter related to the identification, evaluation or placement of the student or the provision of "free appropriate public education" (FAPE). This right includes the opportunity for participation by the student's parents and representation by counsel. The district will appoint the mediator or hearing officer who may not be an employee of the district or anyone who has a personal or professional interest which would conflict with objectivity in the mediation and/or hearing.

### ***Grievance Procedure: Mediation and Impartial Hearing***

If, for any reason, the district and parent and/or student are in disagreement with regard to the identification, evaluation or placement of the student under §504, the parent and/or student has the right to initiate a grievance to request mediation and or an impartial hearing under the following procedures. (see 5020.3-E.3)

- 6.1 Mediation
- a. The 504 Compliance Officer (or designee) will offer informal mediation within twenty-one (21) days of written notice of known disagreement.
  - b. If informal mediation does not bring resolution to the disagreement within fifteen (15) days following its initiation, the 504 Compliance Officer (or designee) will offer formal mediation to the parent and/or student. Formal mediation offers will be accepted or rejected by the parent and/or student in writing within 10 days following the date of offer to mediate. Offers of third party formal mediation in no way implies that either party has surrendered the right to an impartial hearing as a consequence of mediation attempts.

- c. When both parties have agree to normal mediation, the 504 Compliance Officer (or designee) will arrange for mediation and provide the mediator with documents requested after securing appropriate releases from the parent and/or student. Confidentiality procedures set forth by the district consistent with IDEA provisions will apply. The 504 Compliance Officer (or designee) will ensure the notification of parent and/or students, in writing, of the date, time and location for mediation proceedings along with the name and address of the mediator.
- d. After reviewing all pertinent information, considering the concerns and differences between the parties and other exploratory inquires, the mediator will engage the parties in an attempt to resolve the disagreement. If an agreement is reached, the substance of the agreement will be put in writing and signed by both parties. The district will provide copies of the agreement to the parent and/or student and maintain the original agreement in the student's file. Any unresolved matters may still be the subject of an impartial hearing.
- e. All formal mediation efforts will be completed within thirty (30) days, following the date of agreement by both parties to pursue formal mediation. While formal mediation efforts are employed, all time limits for the initiation of an impartial hearing will be suspended; that is, the time limits will not apply when the issues in dispute are in the process of formal mediation.
- f. If formal mediation does not bring resolution to the disagreement, either party may ask for an impartial hearing pursuant to the requirement under Part 200.5 of the Commissioner's Regulations.

## **6.2 *Impartial Hearing***

- a. A parent and/or student, or district representative if appropriate, must make a written request to the Board of Education for an impartial hearing. If the district representative makes the request, the parent and/or student will be notified in writing immediately.
- b. The Board of Education will appoint immediately an impartial hearing officer who will hear both sides of the case and render a written decision within forty-five (45) calendar days of the date that the Board of Education received the initial hearing request.
- c. The procedures of Part 200.5 of the Commissioner's Regulations will apply to the conduct of impartial hearings under the 504 procedures.

## **6.3 *Review***

If either party disagrees with the impartial hearing officer's decision, the party has the right to appeal to the Office of Civil Rights and/or federal court.

**Adopted::** May 21, 1997

**WAYNE CENTRAL SCHOOL DISTRICT**