ROCKY RIVER CITY SCHOOL DISTRICT

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

ROCKY RIVER CITY SCHOOL DISTRICT

POLICY OF NON-DISCRIMINATION NOTICE

The Rocky River City School District 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 Executive Director of Pupil Services who serves as the District's Compliance Officer at (440) 356-6006. If you would like a copy of the Board policy on non-discrimination, please contact the Compliance Officer and a copy will be provided.

ROCKY RIVER CITY SCHOOL DISTRICT

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 focuses on ensuring that school districts provide accommodations necessary for students with special needs to participate in and benefit from public education programs and activities. This is done primarily through a Section 504 plan that is developed for the student.

As described more fully in these Guidelines, students suspected of having a disability under Section 504 are evaluated by a team of individuals. After assessing the student, a team, which includes the student's parent, 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 flow charts and guidelines for program implementation. If you have questions about Section 504, please call the Executive Director of Pupil Services who serves as the District's Section 504 Compliance Officer.

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 *A Guide to Parent Rights,* a resource guide published by the Ohio Department of Education. If you would like more information about IDEA or would like a copy of *A Guide to Parent Rights,* please contact the Pupil Service Office at (440) 356-6006.

ROCKY RIVER CITY SCHOOL DISTRICT

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 by providing reasonable accommodations giving them access to the district's programs and services in the same manner as their non-disabled peers. 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, circulator, 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 parents.

WHAT DOES "REASONABLE ACCOMMODATION" MEAN?

School districts must make reasonable accommodations that allow an otherwise qualified person to access the school district's programs unless the school district can demonstrate that the accommodation would impose an undue hardship on the operation of its program. 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.

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[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 is "student with a disability" this term will also be used.

In order to determine whether a student is eligible for accommodations under Section 504, school districts must conduct an evaluation. The scope of the evaluation will be determined by individuals such as teachers, counselors, school psychologists and the student's parents. 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 and information about available procedural safeguards.

Students who are found eligible 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 and before a significant change in placement.

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 ameliorative effects of mitigating measures such as: the use of medication; assistive technology; reasonable accommodations or auxiliary aides or services; or learned behavioral or adaptive neurological modifications. The ameliorative effects of the mitigating measures of ordinary glasses or contact lenses shall be considered in determining whether an 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 and/or services the student will receive and which staff members from the district will be responsible for providing the accommodations and/or services.

WHAT IF THERE IS DISAGREEMENT?

If the members of the team from the district and the student's parents 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 with written notice that documents the disagreement. The district will also provide information on the procedural safeguards available to the parent/student. The parent will then decide whether he/she wishes to challenge the district's decision using the available procedural safeguards. Note that a student's **initial** Section 504 plan cannot be implemented without parental consent.

ROCKY RIVER CITY SCHOOL DISTRICT

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 process.

1. The student will be referred to the building's Multi-Tiered Support System Team (MTSS) / Intervention Assistance Team (IAT). This team will review the student's existing academic, behavioral and medical records as well as work samples, intervention records, teacher anecdotal observations and other relevant information as appropriate. The IAT will determine whether interventions/accommodations are needed. If interventions are needed, an IAT Plan will be developed and the student's response to the interventions will be monitored. The IAT will also determine whether the district should proceed with an evaluation to determine eligibility under Section 504 or whether the evaluation should be deferred until the student's response to the interventions has been observed. The decision regarding the Section 504 evaluation will be documented. <u>The student's parent(s) will be involved in the IAT process and will be included in IAT meetings regarding their child (unless the parents refuse to attend the IAT meetings)</u>.

2. If the IAT and the student's parent agree a Section 504 evaluation is needed, IAT and the parent will meet to determine the scope of the evaluation. The parent must provide written consent for the initial evaluation to proceed.

3. 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 that the parent provide information from the child's physician depending on the nature of the suspected disability.

4. When the evaluation is completed, the team (including the parents) 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 (see above for definition).

5. 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.

6. 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 district staff members in conjunction with the student's parents.

7. 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 parents. The original signed Section 504 plan will be maintained in the student's file.

8. If there is disagreement between the parent 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 and provide the parent with a copy of their procedural safeguards.

9. The student's Section 504 Plan will be reviewed and revised (if necessary) on an annual basis.

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 under Section 504 of the 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.

3. Your child has a right to an evaluation prior to the development of an initial § 504 plan and any subsequent significant change in placement. Your child is eligible for a free appropriate public education under § 504 of The Rehabilitation Act of 1973 if the § 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.

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 § 504.

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 § 504, your child has a right to periodic reevaluations, generally every three years, before your child's placement is terminated or significantly changed, and if otherwise determined to be necessary.

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.

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. If you wish to challenge the actions of the district's § 504 Team in regard to your child's identification, evaluation, or educational placement, you should file a written grievance with the district's § 504 Compliance Officer, within 10 calendar days from the time you received written notice of the § 504 Team's action(s). A hearing will be scheduled before an impartial hearing officer selected and appointed by the district and you will be notified in writing of the date, time, and place for the hearing.

Pupil Services Director
Rocky River City School District
1101 Morewood Parkway
Rocky River, Ohio 44116

12. If you disagree with the decision of the impartial hearing officer appointed by the district, you have a right to a review of that decision by a court of competent jurisdiction.

You have a 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 1961 Stout Street, Room 08-148, Denver, CO 80294

NOTICE OF DUE PROCESS PROCEDURES UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973

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

1. In the event you disagree with the district's actions regarding your child's eligibility, accommodations or provision of a FAPE, you must discuss the issue with the district's Section 504 Compliance Officer in an effort to resolve the problem.

2. If the matter is not resolved to your satisfaction by the District's Section 504 Compliance Officer, you must submit a written request for a case review with the district's superintendent. The Superintendent will schedule a case review within ten (10) school days of receiving the request. You may be represented by an attorney or advocate during the case review before the superintendent.

3. The Superintendent will issue a written decision within five (5) days of the case review.

4. If you are not satisfied with the superintendent's decision, you may request a Section 504 impartial due process hearing by submitting a written request to the Superintendent within twenty-one (21) days of receiving the superintendent's case review decision.

5. 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) 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.

6. The impartial hearing officer will issue a written decision to the parent and the district within thirty (30) 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.

7. 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.