

**SECTION 504 OF THE REHABILITATION ACT OF 1973**

**(Section 504 is a Civil Rights Law, which protects the rights of persons with Disabilities from discrimination)**

**PURPOSE**

Section 504 of the Rehabilitation Act of 1973 is a Civil Rights Law, which protects the rights of persons with disabilities from discrimination. Unlike the Individuals with Disabilities Education Act (IDEA), which provides special education and related services, 504 assures that personnel and students with disabilities are provided with accommodations that protect them from discrimination. The purpose of this policy is to ensure Summers County Schools compliance with Section 504 of the Rehabilitation Act, which requires the school district to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a disability will knowingly be permitted in any of the programs and practices in the school system.

**RESPONSIBILITY**

The school district has specific responsibilities under Section 504, which include the responsibility to identify, evaluate, and if the child is determined to be eligible under Section 504, to afford access to appropriate educational services. The 504 Committee in each school will be the Student Assistance Team (SAT) and will receive referrals through the child-find process, from Eligibility Committees, and from parents, teachers, and other appropriate sources in order to locate and notify possible qualified disabled persons who may be eligible for services under Section 504.

It shall be the responsibility of each school's 504 Committee, with principal supervision, to follow all guidelines and procedures set forth by the school district when responding to 504 referrals. Questions and inquiries from parents or staff regarding 504 accommodations should be directed to the school principal or SAT coordinator. If the parent or guardian disagrees with the determination made by the school staff, he/she may submit a grievance by following the county's administrative procedures, AP-PS-A, for grieving a 504 issue.

If the parent or guardian disagrees with the determination made by the professional staff of the school district, he/she has the right to a hearing with an impartial hearing officer. The Family Educational Rights and Privacy Act (FERPA) also specifies rights related to educational records. The Act gives the parent or guardian the right to: 1.) Inspect and review his/her child's educational records; 2.) Make copies of these records; 3.) Receive a list of all individuals having access to those records; 4.) Ask for an explanation of any item in the records; 5.) Ask for an amendment to any record on the grounds that it is inaccurate, misleading, or violates the child's rights; and 6.) A hearing on the issue if the District refuses to make the amendment.

**AUTHORITY**

The Summers County Board of Education has the authority to develop a policy, which specifies how the school district will implement the Rehabilitation Act of 1973.

**STATUTORY AUTHORITY:** Rehabilitation Act of 1973 (Section 504) 29 U.S.C. 794. For information contact Summers County, 504 Coordinator, Summers County Schools, 116 Main Street, Hinton, WV 25951 Phone 304-466-6006.

**GUIDELINES AND PROCEDURES FOR SECTION 504 OF THE REHABILITATION ACT OF 1973**

1. The Student Assistance Team (SAT) in each school will serve as the 504 Committee and will focus on protecting the rights of students with disabilities from discrimination. When a student is being referred for 504 eligibility, the SAT coordinator will invite persons knowledgeable about the student as well as persons knowledgeable about the meaning of the evaluation data. When responding to a 504 referral, the Committee must consist of at least three members: school administrator, current teacher, parents, students if appropriate, and other appropriate professional staff. No final determination of whether the student will or will not be identified as a disabled individual within the meaning of Section 504 will be made by the Committee without first inviting the parent or guardian of the student to participate in the meeting concerning such determination.

2. The SAT shall receive referrals from parents, teachers, and other appropriate sources in order to locate and notify possible qualified disabled persons who may be eligible for services under Section 504. They shall be informed of their rights by giving

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them a copy of the school district's 504 Policy and Guidelines.

3. Before any action is taken with respect to Section 504 accommodations for a disabled student, the SAT Team determines if an evaluation shall be conducted or evaluation information reviewed to determine if the student is disabled under Section 504. The evaluation information may include but will be limited to medical reports documenting the disability, achievement test scores, teacher observations, report on student's physical condition, aptitude, social or cultural background, adaptive behavior and other relevant data.

4. If the SAT determines that an evaluation is necessary for students who may be disabled under Section 504, but not disabled under IDEA, the parents must be informed that such evaluation will be done. The evaluation procedures must ensure that:

Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever factor the test reports are to measure rather than reflecting the student's impaired sensory, manual or speaking skills (except where those skills are the factors that the test reports are to measure).

5. Once the evaluations are completed, the results will be considered by the SAT to determine whether the student is disabled under 504. The student's parents will be sent a letter of invitation, to attend and participate in the meeting at which this determination is made. This letter will be sent at least ten (10) days prior to the meeting. Parents will also be sent a copy of the notice of rights regarding the identification, evaluation, and placement of students with disabilities.

6. If the SAT determines the student is a "qualified disabled person" under 504, the SAT shall determine whether the student requires services and modifications to the education program to allow the student's educational needs to be met as adequately as the educational needs of non-disabled students. If services and modifications such as the examples listed on Sample Accommodations Form are needed, they will be documented on the student's 504 Plan. Before developing a 504 Plan that involves special education instruction, the student must be referred for a multi disciplinary evaluation. If an Eligibility Committee determines that a student is disabled under the IDEA, the student is automatically eligible under Section 504 of the Rehabilitation Act; however, the services required by the student shall be provided pursuant to the procedures located in Policy 2419

7. When an Eligibility Committee determines that student is not disabled under IDEA or recommends that a student who was disabled under the IDEA be dismissed, the Eligibility Committee shall thereafter determine whether the student should be referred to the SAT to ascertain whether the student is disabled under Section 504.

8. A log, of all 504 students will be maintained by the SAT Coordinator, at the school, and the student will be "tagged" in the WVEIS system. The 504 Plan will be implemented within thirty (30) days of eligibility determination.

9. "Qualified disabled students" under Section 504 may participate in non-academic and extracurricular activities such as counseling services; physical, recreational, athletics; transportation; health services; special interest groups or clubs sponsored by SUMMERS County Schools; referrals to agencies which provide assistance to disabled persons and employment of students, including both employment by SUMMERS County Schools and assistance in making available outside employment, to the same extent that such services and activities are provided to non-disabled students. "Qualified disabled students" may be charged a fee for such services and activities in a sum equal to those charged to non-disabled students.

10. Students who are determined to be a "qualified disabled person" under 504, but not also disabled under IDEA, must be reevaluated when deemed appropriate by the SAT, not to exceed three years from date of eligibility and/or before a significant change in placement, including proposed disciplinary action. The reevaluation date shall be included on the student's 504 Plan.

11. With respect to actions regarding the identification, evaluation or educational modifications of a student who is or may be disabled under Section 504, but not also disabled under IDEA, the following procedural safeguards shall be afforded:

- a. If the parents of the student disagree with the recommendations of the SAT, a written grievance may be submitted per Summers County's Administrative Procedures for Section 504 of the Rehabilitation Act/Americans with Disabilities Act Grievance, AP-PS-A. These Administrative Procedures may be obtained from the Summers County's 504 Coordinator or the school principal.

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- b. Parents may request a due process hearing for Section 504 issues with respect to actions regarding the identification, evaluation or educational placement of public school students who, because of a disability, need or are believed to need educational accommodations. Such a request may be mailed to the Office of Special Education, West Virginia Department of Education. A hearing request pertaining to issues under both the Individuals with Disabilities Education Act and Section 504 for an individual student filed with Summers County Schools will be treated as one due process hearing. The Office of Special Education will assign a hearing officer and notify both parties of the hearing officer's assignment. The hearing officer then takes charge of the process by contacting the parties, or their representatives, directly.
- c. Parents may file a complaint with the Office for Civil Rights or pursue any other legal rights available to you and the student.

**DEFINITIONS**

A **"disabled person"** is one who: a.) has a physical or mental impairment which substantially limits one or more major life activities; b.) has a record of such an impairment; or c.) is regarded as having such impairment.

However, the term "disabled person" does not include a student who is currently engaging in the illegal use of drugs. The term "disabled person" does not exclude students who: a.) have successfully completed a supervised drug rehabilitation program and are no longer engaging in the illegal use of drugs or have otherwise been rehabilitated successfully and are no longer engaging in such use; b.) are participating in a supervised drug rehabilitation program and are no longer engaging in such use; or, c.) are erroneously regarded as engaging in such use, but are not engaging in such use.

A **"qualified disabled person"** is one who is: a.) of an age during which non-disabled persons are provided public preschool, elementary, secondary, or adult educational services; b.) of an age during which it is mandatory under West Virginia law to provide such services to disabled persons; or, c.) who is entitled to a free appropriate public education from the state of West Virginia under the Individuals with Disabilities Education Act.

A **"physical or mental impairment"** means: a.) any physiological disorder or condition, cosmetic disfigurement, or anatomical cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or, b.) any mental or psychological disorder; such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

A **"major life activity"** includes, but not limited to functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

**"Has a record of such impairment"** means that a person has a history of, or has been misclassified as having, a mental or physical impairment which substantially limits one or more major life activities

**"Is regarded as having an impairment"** means an individual who: a.) has a physical or mental impairment that does not substantially limit major life activities but that is treated by the school district as having such a limitation; b.) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others to such impairment; or, c.) has none of the impairments defined as a physical or mental impairment but is treated by Summers County Schools as having such an impairment.

**"Free appropriate public education"** is the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of disabled persons as adequately as needs of non-disabled persons are met.

"IDEA" is the Individuals with Disabilities Education Act and includes Policy 2419 and other applicable regulations where appropriate.

**Notice of Parent/Student Rights in Identification, Evaluation, and Placement §504 of the Rehabilitation Act of 1973**

The following is a description of the rights granted by federal law to students with disabilities. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions. You have the right to:

1. Have your child take part in, and receive benefits from public education programs without discrimination because of his/her

disability.

2. Have the school district advise you of your rights under federal law (which is the purpose of this notice).
3. Have your child receive a free appropriate public education. This includes the right to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to have the school district make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
4. Have your child educated in facilities and receive services comparable to those provided non-disabled students.
5. Have your child receive special education and related services if he/she is found to be eligible under the Individuals with Disabilities Education Act or §504 of the Rehabilitation Act.
6. Have evaluation, education, and placement decisions made based upon a variety of information sources, and by persons who know the student, the evaluation data, and placement options.
7. Have transportation provided to and from an alternative placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the district.
8. Have your child be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district
9. Examine all relevant records relating to decisions regarding your child's identification, evaluation, education program, and placement.
10. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records.

#### **SAMPLE 504 Accommodations**

##### **Communications:**

There may be a need to modify parent/student/teacher communications

- develop a daily/weekly journal
- develop parent/student/school contacts
- schedule periodic parent/teacher meetings
- provide parents with duplicate set of texts

There may be a need to modify staff communications -

- identify resource staff
- network with other staff
- maintain on-going communications with building principal

There may be a need to modify school/community agency communications, with parent consent -

- identify and communicate with appropriate agency personnel working with student
- assist in agency referrals
- provide appropriate carryover in the school environment

##### **Organization/Management:**

There may be a need to modify the instructional day -

- allow student more time to pass in hallways
- modify class schedule

There may be a need to modify the classroom organization/structure -

- adjust placement of student with classroom (e.g., study carrel, proximity to teacher)
- increase/decrease opportunity for movement
- determine appropriate classroom assignment (e.g., open vs. structured)
- reduce external stimuli

- structured learning environment
- use behavior management techniques

There may be a need to modify the district's policies/procedure -

- allow increase in number of excused absences for health reasons
- adjust transportation/parking arrangements
- approve early dismissal for service agency appointments

**Alternative Teaching Strategies:**

There may be a need to modify teaching methods -

- adjust testing procedures (e.g., length of time, administer orally, tape record answers)
- individualize classroom/homework assignments
- utilize technology (computers, tape recorders, calculators, etc.)

There may be a need to modify materials -

- utilize materials that address the student's learning style (e.g., visual, tactile, auditory, etc.)
- adjust reading level of materials

**Student Precautions:**

There may be a need to modify the classroom/building climate for health purposes -

- use an air purifier in classroom
- control temperature
- accommodate specific allergic reactions

There may be a need to modify classroom/building to accommodate equipment needs -

- plan for evacuation for wheelchair-bound students
- schedule classes in accessible areas

There may be a need to modify building health/safety procedures -

- administer medication
- accommodate special diets

**Summers County Schools Notice of Parent/Student Rights in Identification, Evaluation, and Placement**

(Section 504 of the Rehabilitation Act of 1973)

The following is a description of the rights granted by federal law to students with disabilities\* The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions.

You have the right to:

1. Have your child take part in, and receive benefits from public education programs without discrimination because of his/her disability.
2. Have the school district advise you of your rights under federal law (which is the purpose of this notice).
3. Have your child receive a free appropriate public education. This includes the right to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to have the school district make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
4. Have your child educated in facilities and receive services comparable to those provided non-disabled students.
5. Have your child receive special education and related services if he/she is found to be eligible under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act.

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6. Have evaluation, education, and placement decisions made based upon a variety of information sources, and by persons who know the student, the evaluation data, and placement options.
7. Have transportation provided to and from an alternative placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the district.
8. Have your child be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district.
9. Examine all relevant records relating to decisions regarding your child's identification, evaluation, education program, and placement.
10. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records.
11. Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading or otherwise in violation of the privacy rights of your child. If the Summers County Schools refuses this request for amendment, it must notify you within a reasonable time, and also advise you of the right to a hearing.
12. Have the right to obtain an independent educational evaluation, at your own expense. Summers County Schools has the responsibility to provide you, on request, with information about where an independent educational evaluation may be obtained. This independent educational evaluation may be at public expense if you disagree with the school system's evaluation. In this case, Summers County Schools may request a due process hearing to establish that its evaluation is appropriate. If the evaluation by school system is deemed appropriate, the parent will be responsible for the expense of the independent educational evaluation. Regardless of the party who pays for the independent educational evaluation, that evaluation will be considered by committees and individuals making educational and placement determinations about your child. Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program and placement.
13. Obtain copies of educational records at a reasonable cost unless that fee would effectively deny you access to the records, in which case the records will be provided free of charge.
14. A response from the Summers County Schools to reasonable requests for explanations and interpretations of your child's records.
15. Request mediation or an impartial due process hearing related to decisions or actions regarding your child's identification, evaluation, educational program or placement. You and your child may take part in the hearing and may have an attorney represent you, at your request. In certain incidences, attorney fees can be reimbursed. Hearing requests must be made to Coordinator for Section 504 compliance, Summers County Schools, at the address noted below.
16. Ask for payment of *reasonable* attorney fees if you are successful on your claim.
17. Appeal an unsuccessful claim.
18. File a local grievance, a complaint with the Office of Civil Rights or pursue your legal rights in court.

The person in the county who is responsible for assuring that the district complies with Section 504 is: Kimberly J. Rodes, Coordinator Section 504 Compliance, Summers County Schools, 116 Main Street, Hinton, WV 25951

The person/agency with whom you may contact to file a complaint is:

Regional Civil Rights Director, Region III United Department of Education, The Wanamaker Building RO3, Suite 515  
100 Penn Square East  
Philadelphia, PA 19107  
(215) 656-8541