



SOUTH KINGSTOWN SCHOOL DEPARTMENT

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SOUTH KINGSTOWN SCHOOL DISTRICT'S PROCEDURE

SECTION 504 OF THE REHABILITATION ACT OF 1973

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THE AMERICANS WITH DISABILITIES AMENDED ACT

The South Kingstown School District (the District) will ensure that no student with a disability as defined in Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Amended Act (ADAA) within the District's jurisdiction will be denied, because of his/her disability, participation in curricular, intramural, or interscholastic activities or any of the services offered or rendered regularly to the students of this District. No otherwise qualified person shall, solely by reason of his/her disability, be subjected to discrimination under any program or activity sponsored by the South Kingstown School District. The District is committed to ensure that students with Section 504 disabilities be identified, evaluated, and provided with a free appropriate public education (FAPE). The District does not discriminate on the basis of disability with regard to admission, access to education services, treatment or employment in its programs and activities.

I. DEFINITIONS:

The following definitions apply:

Section 504 of the Rehabilitation Act of 1973, (42 USC 12102 et seq.)

Sec. 794

Nondiscrimination under Federal Grants and Programs:

"No otherwise qualified individual with a disability in the United States, as defined in Sec. 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any executive agency or by the United States Postal Service." (29 USC Sec. 794 (a).

The Americans with Disabilities Amended Act ADAA

Effective January 1, 1990, the Americans with Disabilities Amendment Act also amended the Rehabilitation Act of 1973 such that the definition of a disability under the Rehabilitation Act (29 U. S. C. 705) is the same as the definition of a disability under the ADAA (42 U. S. C. 12102). This policy incorporates the amendment to the Americans with Disabilities Act.

Individuals with Disabilities Education Improvement Act - also known as IDEA" (20 USC 1401 et seq) is a law ensuring services to children with disabilities throughout the nation. IDEA governs how states and public agencies provide early intervention, special education and related services to more than 6.5 million eligible infants, toddlers, children and youth with disabilities.

Hereafter, the policy will refer to Section 504 with the understanding that the ADAA also applies.

Individual with Disability:

Any individual who (i) has a physical or mental impairment that SUBSTANTIALLY LIMITS one or more of such person's major life activities; (ii) has a record of such impairment; or (iii) is regarded as having such an impairment. (29 USC 705, 42 USC 12102)

Major Life Activities:

(A) Included, but not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. (29 USC, 705, 42 USC 12102)

(B) Major Bodily Functions include, but are not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. (29 USC 705, 42 USC 12102)

Substantially Limits:

(A) The term "substantially limits" is not defined by law or regulation. Individual 504 teams must determine whether the student has a disability that substantially limits a major life activity.

(B) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

(C) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

(D) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measure such as the following examples: medication, medical supplies, equipment, hearing aids and cochlear implants, reasonable accommodations, or auxiliary aids or services This list is not exhaustive.

Has a record of:

Has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.

Is regarded as:

The individual establishes that he or she has been subjected to an action prohibited under this Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

NOTE: The second and third prongs of the definition only become a factor if discrimination has occurred because of the “record” or “history”.

II. REGULATORY REQUIREMENTS

Section 504 regulations require that all students with disabilities be provided:

- a free and appropriate public education (FAPE) including individually designed programs
- equal access to programs and services, including non-academic and extra-curricular activities
- notice to parents or guardians with respect to 504 procedures
- determination of Section 504 eligibility, done by a group of persons knowledgeable about the student and the results of information gathering or the evaluation conducted
- evaluation data based on a variety of sources, including parent-provided information
- development of a Section 504 plan, if deemed appropriate
- periodic reevaluation of the effectiveness of the 504 plan
- due process/grievance procedures available to parents/guardians

III. FACILITIES/PROGRAM

Barrier-free access to school facilities shall be provided to ensure that no individual with a disability is denied an opportunity to receive an education. Students with disabilities will have facilities of a type and quality equivalent to those of students without disabilities.

IV. IDENTIFICATION/EVALUATION/PLACEMENT

Identification

Each school shall make all reasonable efforts to identify students with disabilities who reside within the District in order to determine possible eligibility for special education and/or related services or supplementary aids or services in accordance with federal and state law and this policy and procedures manual.

Evaluation

Any student, who the school suspects of having a physical or mental disability which may substantially limit a major life activity, may be referred for an evaluation by a certified and / or trained individual. Evaluations must address the concerns raised and the referral questions.

Placement

A free appropriate public education (FAPE) shall be provided for each child determined to be qualified as disabled under Section 504. A qualified student with a disability shall be placed in an education setting with his/her non-disabled peers to the maximum extent appropriate ("least restrictive environment" or "LRE"). If the qualified student requires accommodations in a regular education classroom, the student's principal, shall involve the student's regular education teacher(s) in the Section 504 evaluation and accommodation process to ensure that they:

1. Have knowledge of the law and the relationship between the student's disability and his/her need for accommodations and interventions and/or services.
2. Have knowledge of the student's needs;
3. Make appropriate accommodations in the instructional program and/or classroom environment to make it possible for the student to access the general education curriculum and reasonable accommodations to provide the student equal access to facilities, curricular, and extra-curricular programs.

V. REFERRAL

It is the responsibility of each school to identify and evaluate students who, within the intent of the Section 504 of the Rehabilitation Act of 1973, require special accommodations and/or services in order to receive a free appropriate education (FAPE).

Any student who needs, or is believed to need, accommodations or services not available through existing programs in order to receive a free appropriate public education may be referred by a parent, teacher, or a third party for consideration and possible evaluation of the student's individual educational needs.

The school principal or his/her designee is the school's Section 504 coordinator and shall provide referral forms upon request.

The Section 504 Referral Form (Form 1) must be submitted directly to the school principal, and the principal will sign the original form upon receipt and make two (2) copies. The original form will be the district copy. One will be a 504 team (school) copy and one will be the parent copy. Within 10 days, parents must be sent written notice of the referral (Form #2) and a copy of the Section 504 procedural safeguards. (Form #4)

The Section 504 coordinator shall appoint the members of the 504 Team for the student and team members shall gather all relevant information from a variety of sources, including parent-provided information.

VI. NOTICE AND INVITATION

The student's parent shall be notified of, and invited to participate in, (Form #2) the Section 504 School Team meeting within a reasonable amount of time (no more than 30 days from the initial referral). The 504 Team may meet and decide issues relating to the referral, evaluation, and identification of accommodations without the attendance or participation of the student's parent as long as the school has provided the parent with reasonable notice of the meeting and the parent either does not attend or declines to attend. The 504 Coordinator must maintain a record of the notice sent to the parent and the attempts to engage the parent in participation. There should be at least two attempts before the meeting is held without the parent. Said notice shall be clearly communicated to the parent and / or student.

VII. CONSENT

Section 504 does not require written consent for evaluation or implementation of 504 plans. However, South Kingstown Schools shall follow best practice and obtain written consent for all evaluations completed.

VIII. SECTION 504 TEAM

The Section 504 School Team shall be composed of at least two persons other than the parent who are knowledgeable about the student's school history, the student's individual needs, the meaning of evaluation data, and options that will enable the student to attain equal access. Team membership will be determined by the needs of the individual student being evaluated, and may not be composed of a single pre-determined group assembled to assess all students. If there are medical issues or concerns, the school nurse will need to participate and determine if it may be necessary to develop a Health Care Plan or specific accommodations that are medically necessary.

IX. EVALUATIONS AND PROCEDURES

The Section 504 evaluation requires the use of evaluation procedures that ensure that children are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed. Therefore, any tests used for the purpose of qualifying a student under Section 504 shall be selected and administered so as best to ensure the test assessments results accurately reflect the student's aptitude, achievement or other factors, rather than reflect the student's disability, except where those are the factors being measured. All evaluation materials must be tailored to evaluate the specific areas of educational need and not merely those designated to provide a single intelligence quotient. The tests and other evaluation materials must be validated for the specific purpose for which they are used and appropriately administered by trained personnel.

The Section 504 School Team shall consider all relevant information, from a variety of sources, including any reports, evaluations, or diagnoses provided by the student's parents as well as the student's grades, disciplinary referrals, health information, language surveys, parent information, standardized test scores, informal assessments, and teacher comments to determine whether he/she is disabled under Section 504. The team shall also consider any behaviors that interfere with regular participation of a student who otherwise meets the criteria (such as age) for participation in the educational program and/or activities. Minutes of the meeting may be taken by 504 team coordinator/designee if appropriate.

Should the Section 504 School Team determine that a student is disabled under Section 504, (Form #3) it will develop a Section 504 accommodation plan describing what accommodations, services, and/or programs will be provided to meet the student's specified needs. The Section 504 coordinator will also serve as the case manager, and will enter the 504 plan and relevant information in the district's Student Information System (SIS).

X. SECTION 504 ACCOMMODATION PLAN

The Section 504 School Team will develop a written plan (See Appendix) describing the disability and the individualized needs or related services needed. The plan will specify how the regular or individualized instruction and/or aids and/or services will be provided, and by whom. Usually, the student's general education teacher will be in charge of implementing the specific accommodations.

The parents or guardian shall be invited to participate in Section 504 School Team meetings where accommodations and services for the student will be determined, and the parents shall be given an opportunity to examine all relevant records.

The team may also determine that no special accommodations or services are appropriate. If so, the record of the Section 504 School Team proceedings will reflect the determination of the student as a person without a qualified disability and will state the basis for the decision that no special services or accommodations are presently needed. The parent will be provided with written information about this decision, (Form #3) and also with a copy of the Parent and Student Rights under 504. (Form #4)

XI. INTERVENTION PLAN

An intervention plan is appropriate for an at-risk student who may be facing challenges in school. Teacher Support Teams (TST)/ Targeted Teams are designed to provide educators with support and strategies for helping students in need of various accommodations and assistance. Regular Education Intervention Plans are not policed by the US Department of Education, Office of Civil Rights or the Rhode Island Department of Education.

A student with a disability under Section 504 shall be placed in the general educational environment of the District, with the use of accommodations and/or services, unless the District demonstrates that such placement cannot be achieved appropriately. The student with a qualified disability shall be educated with those who are not disabled to the maximum extent appropriate to the individual needs of the student.

The intent of Section 504 is to “accommodate” qualified disabled students’ needs within the general education environment, so that the student may gain access to the general curriculum. For this to occur, all school staff shall be provided specific information concerning the procedures for implementing Section 504 plans.

XII. TRANSFERS

If the student transfers to another school or district, the sending school shall include the 504 plan when forwarding records to the receiving school.

If a student enrolls in South Kingstown with a Section 504 plan from another district or state, the plan will be immediately implemented to the extent possible. Within 30 days, the 504 coordinator will convene a 504 team and the team will conduct a/n review/evaluation consistent with the procedures outlined in this policy.

XIII. RE-EVALUATIONS/CHANGE IN PLACEMENT

Section 504 requires a periodic review, not less than annually to review the plan’s efficacy and on-going need. Additionally, this allows the succeeding teachers and service providers an opportunity to learn of the student’s needs and ensure that the plan is implemented at the beginning of each school year. An “evaluation” is required prior to a change of placement. Changes of placement would include graduation and disciplinary removals in excess of ten consecutive days.

XIV. DISCIPLINE

The discipline procedures described in the STUDENT CODE OF CONDUCT will be used in all situations in which a student with a qualified disability under Section 504 (or suspected qualified disability) may be subject to suspension or expulsion. Since expulsion or cumulative forms of suspension may, in cases when the student will be excluded from school ten (10) or more days,

constitute a change in placement, a group of persons knowledgeable about the student, including the parent, shall convene a manifestation meeting to discuss whether the behavior that led to the proposed disciplinary action is directly related to the child's disability. In this process, the team re-evaluates the student. If the team's determination is that behavior leading to the proposed disciplinary action is not a manifestation of the child's disability then the child shall be disciplined according to the STUDENT CODE OF CONDUCT, the same as non-disabled peers.

XV. REVIEW/RE-EVALUATION OF STUDENT'S PROGRESS

The Section 504 School Team will monitor the effectiveness of the student's section 504 Accommodation Plan periodically and conduct a re-evaluation at generally every three years.

XVI. IMPLEMENTATION OF SECTION 504 PLANS

All educators must implement the provisions of Section 504 plans for those students for whom the teacher is responsible. If the educator fails to implement the plans, such failure may be considered discrimination on the basis of a disability and the parent will be able to file a complaint with the U.S. Department of Education, Office for Civil Rights, file a Section 504 due process hearing or file a complaint under the District's grievance procedure.

XVII. GRIEVANCE PROCEDURES

General Statement

The South Kingstown School District strives to provide an environment free from discrimination. The District encourages students, parents, and staff to identify barriers to a discrimination-free and an appropriate learning environment in the school(s). All grievances will be received and investigated in a fair and expeditious manner.

This policy does not deny the right of the grieving party to file formal complaints at any time with the Rhode Island Department of Education, the US Department of Education, Office of Civil Rights and/or to seek private counsel for complaints alleging discrimination.

All records pursuant to the grievance shall be maintained by the District separate and apart from student records for a period of not less than five (5) years.

If a parent requests an impartial due process hearing, all parties shall have the right to representation, to present witnesses and evidence, and to question opposing witnesses.

Steps to Resolution

Step 1: Principal or Immediate Supervisor (Informal and optional – may be bypassed by grieving party)

An informal meeting with the parties and the principal or the District Coordinator can solve many problems. An individual with a complaint is encouraged to first discuss it with the teacher, counselor, or building administrator involved with the objective of resolving the matter promptly and informally. Employees with a complaint are encouraged to first discuss it with their principal or immediate supervisor with the same objective.

Step 2: Section 504 District Coordinator

The Section 504 District Coordinator is:
Teresa Eagan, Director of Pupil Personnel Services
307 Curtis Corner Road
Wakefield, RI 02879

If the complaint or issue is not resolved at Step 1, the grieving party may file a written grievance stating: 1) the nature of the grievance; and 2) the remedy requested. The grieving party must sign and date the grievance. The written grievance must be filed with the Section 504 Coordinator within ten (10) days of the event or incident, or from the date the grieving party could reasonably become aware of such occurrence.

Responsibility of the 504 District Coordinator

The Section 504 District Coordinator is appointed by the superintendent or designee and is personally responsible for Section 504 compliance throughout the District. The Section 504 District Coordinator has the authority to investigate all written grievances and to issue corrective actions to address non-compliance with federal law. The Section 504 District Coordinator will prepare a written report of all investigations, which shall include the following:

1. A clear statement of the allegations of the grievance and remedy sought by the grieving party.
2. A statement of the facts as contended by each of the parties.
3. A statement of the facts as found by the Section 504 District Coordinator and identification of evidence to support each fact.
4. A list of all witnesses interviewed and documents reviewed during the investigation.
5. A narrative describing attempts to resolve the grievance.
6. The Section 504 District Coordinator's determination as to whether the allegations in the grievance are meritorious.

The Section 504 District Coordinator or designee will complete the investigation and file the report with the Superintendent within twenty-five (25) days after receipt of the written grievance. The Section 504 District Coordinator will send a copy of the report to the grieving party.

If the Section 504 District Coordinator believes the grievance is valid, the Section 504 District Coordinator will recommend appropriate corrective actions to the superintendent.

If the Superintendent agrees with the recommendation of the Section 504 District Coordinator, the corrective actions will be implemented.

Other Options of the Grieving Party

At any time during this process, the grieving party may file a complaint with the Rhode Island Department of Education or the U.S. Department of Education, Office of Civil Rights.

XVIII. SECTION 504 MEDIATION AND HEARING PROCEDURES

Mediation procedures for Section 504 are not intended to delay or hinder the parent/legal guardian's right to a hearing. Rather, they are intended to assist the parent/legal guardian in resolving differences and in obtaining a free appropriate public education for their child.

When the parent/legal guardian does not agree with the Section 504 evaluation findings and/or the accommodation plan/placement recommendations, the following may occur:

- 1) The school principal arranges a conference that includes the parent/legal guardian, the classroom teacher(s), and/or participants as needed. The parent/legal guardian(s) is given a copy of the Section 504 Procedural Safeguards. If the parent/legal guardian is non-English speaking, an interpreter is provided.
- 2) The school principal conducts the conference and informal resolution of the differences is sought.
 - a) The school principal explains to the parent/legal guardian that this due process does not interfere with his/her right to file a formal complaint.
 - b) The school principal/designee summarizes the results of the conference in writing, sends copies to the parent/legal guardian and places copies in the student's cumulative folder.

Due Process Procedures

The South Kingstown School District's procedures for Section 504 due process hearings ensure that:

1. A parent/legal guardian or the school district may initiate a hearing on matters dealing with identification, evaluation or the provision of a free appropriate public education.
2. The district may initiate a hearing to override a parent's refusal or revocation of consent for a Section 504 evaluation.
3. Parents will receive timely notice of the date and time of the hearing, which shall be mutually convenient.
4. The hearing officer will be selected by the District.
5. The hearing officer shall not be:
 - a) Employed by an agency involved with the care or education of the student subject to the hearing.

- b) A person having a professional or personal interest that would conflict with his/her objectivity in a hearing.

Due Process Hearing Rights and Procedures

The parties to a Section 504 Due Process Hearing have a right to:

1. Be accompanied and advised by an attorney
2. Have the assistance of an interpreter (if the parent's natural language is not English and given adequate notice to the District)
3. Present evidence and examine witnesses
4. The hearing officer shall render a decision, subject to judicial review that is binding on all parties, except that in all cases any action taken must comply with the current Rhode Island Revised Code and federal court decisions.
5. The party initiating the due process hearing will bear the burden of proof
6. Parents or the District may initiate a due process hearing on a matter related to (1) eligibility and related procedures, (2) procedural safeguards, or (3) provision of a free and appropriate public education to the student.
7. The request shall include:
 - a. The name of the student
 - b. The name of the parent/legal guardian
 - c. The address and telephone number of the legal guardian
 - d. The name of the school the child attends
 - e. A statement of the issues to be presented at the hearing
 - f. A statement of the remedy requested of the hearing officer

Decision of the Hearing Officer

The hearing officer shall review all relevant facts and render a decision.

A copy of the hearing officer's decision shall be delivered to the District and the parent/ guardian within forty-five days from the date of the hearing.

Notification will include a statement that either party may appeal the decision to district court.

REFERENCES

The Cleveland Municipal School District (2009) revised 504 Policy, Cleveland, Ohio

Zirkel, P., & Gorn, S. (1997) "Section 504, the ADA and the Schools," Horsham, PA, LRP Publications
Rehabilitation Act of 1973, (29 USC 794 et seq.)

Americans with Disabilities Amendment Act (ADAA), (42 US, 12101 et seq.)

Individuals with Disabilities Education Improvement Act (IDEIA) 2004, (20 US, 1401 et seq.)

Appendix

Section 504 forms

Form #1-Section 504 Referral Form

Form #2- Notice of Section 504 Referral/Eligibility Meeting

Form #3- Notice of Section 504 Disability Determination

Form #4- Notice of Parent and Student Rights under Section 504

Form #5- 504 Accommodation Plan (two pages)

Form #6 – Parental Consent Form

Form #7 – Exit Form