

# **Non-Discrimination Policy**

## **Tipton Community School Corporations' Non-Discrimination Policy**

It is a policy of Tipton Community School Corporation not to discriminate on the basis of race, color, religion, sex, national origin, age or disability in its educational programs or employment policies as required by the Indiana Civil Rights Act (IC.22-9-1), IC 20-8-1-2, Titles VI and VII of the Civil Rights Act of 1964, the Equal Pay Act of 1973, Title IX (1972) Educational Amendments), Section 504 of the Rehabilitation Act of 1973. Inquiries regarding Tipton Community School Corporation's compliance with Title IX, Section 504 or the Americans with Disabilities Act should be directed to the Director of Student Services (student/parent/employee/applicant) 1051 South Main Street, Tipton, Indiana, 46072, or to the Office for Civil Rights, US Department of Education, Washington, D.C.

## **Non-Discrimination Policy - Section 504**

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## **An Introduction**

Section 504 prohibits discrimination against handicapped persons, including both students and staff members, by school districts receiving federal, financial assistance. Included in the U.S. Department of Education regulations for Section 504 is the requirement that handicapped students be provided with free appropriate public education (FAPE). These regulations require identification, evaluation, the provisions of appropriate services, and procedural safeguards.

With respect to most handicapped students, many aspects of the Section 504 regulation concerning FAPE parallel the requirements of the Individuals with Disabilities Education Act (IDEA). In those areas, by fulfilling responsibilities under the IDEA and state law a district is also meeting the standards of the Section 504 regulations.

However, in some other respects the requirements of the laws are different. There are some students who are not eligible for IDEA services but who nevertheless are deemed handicapped under Section 504, and to whom a district may therefore have responsibilities.

The IDEA defines as eligible only students who have certain specified types of impairments and who, because of one of those conditions, need special education. Section 504, on the other hand, protects all handicapped students, defined as those having any physical or mental impairment that substantially limits one or more major life activities (including learning). Section 504 covers all students who meet this definition, even if they do not fall within the IDEA-enumerated categories and even if they do not need to be in a special education program.

An example of a student who is protected by Section 504, but who may not be covered by the IDEA, is one who has juvenile arthritis but who has no mental impairments. Such a student has a health impairment but may not be covered by IDEA if he does not need placement in a special education program. However, the student is handicapped for purposes of Section 504. A similar example might be a student who is HIV Positive. Students with attention deficit disorder (ADD) or emotional disorders provide other examples. Such students may not meet the criteria for IDEA categories such as learning disabilities or emotionally disturbed. However, if their disorders or conditions substantially limit their ability to function at school, they are handicapped within the meaning of Section 504.

If a district has reason to believe that, because of a handicap as defined under Section 504, a student needs either special education and services or related services in the regular setting in order to participate in the school program, the district must evaluate the student; if the student is determined to be handicapped under Section 504, the district must develop and implement a plan for the delivery of any needed services. Again, these steps must be taken even though the student is not covered by IDEA special education provisions and procedures.

What is required for the Section 504 evaluation and placement process is determined by the type of handicap believed to be present, and the type of services the student may need. The evaluation must be sufficient to accurately and completely assess the nature and extent of the handicap, and the recommended services. Evaluations more limited than a full special education evaluation may be adequate in some circumstances. For example, in the case of the student with juvenile arthritis, the evaluation might consist of the school nurse meeting with the parent and reviewing the student's current medical records. In the case of students with ADD, current

psychoeducational evaluations may be used if such evaluation assessed the ADD issue. In other cases, additional testing may be necessary.

The determination of what services are needed must be made by a group of persons knowledgeable about the student. The group should review the nature of the handicap, how it affects the student's education, whether special services are needed, and if so what those services are. The decision about Section 504 eligibility and services must be documented in the student's file and reviewed periodically.

For the student with juvenile arthritis, Section 504 services might be the provision of a typing course and use of a typewriter/word processor to improve writing speed or to provide a less painful means of writing. For the student with AIDS, Section 504 services might be the administration and monitoring of medication, or a class schedule modified to address the student's stamina. For a student with ADD, services might include modification in the regular classroom, special assistance from an aide, a behavior plan, counseling, and/or the monitoring of medication.

It should be noted that, under Section 504, the parents or guardian must be provided with notice of actions affecting the identification, evaluation, or placement of the student. They are entitled to an impartial hearing if they disagree with district decisions in these areas. For handicaps covered only by Section 504 and not the IDEA, a Section 504 hearing will have to be made available.

In summary, it is important to keep in mind that some students who have physical or mental conditions that limit their ability to participate in the education program are entitled to rights under Section 504 even though they may not fall into IDEA categories and may not be covered by that law.

## **Prohibited Acts**

Section 504 of the Rehabilitation Act of 1973 was enacted to eliminate discrimination on the basis of disabilities in any program or activity receiving federal financial assistance. The regulations specifically prohibit a recipient from:

1. Denying a qualified individual with disabilities the opportunity to participate in or benefit from any aid, benefit or service;
2. Affording a qualified individual with disabilities an opportunity to participate in or benefit from any aid, benefit, or service that is not equal to that afforded others;
3. Providing a qualified individual with disabilities with an aid, benefit, or service that is not as effective as that provided to others;

4. Providing different or separate aids, benefits, or services to individuals with disabilities or to any class of individuals with disabilities unless such action is necessary to provide qualified individuals with disabilities with aids, benefits, or services that are as effective as those provided to others;
5. Aiding or perpetuating discrimination against a qualified individual with disabilities by providing significant assistance to an agency, organization, or person that discriminates on the basis of disabilities in providing any aid, benefit, or service to beneficiaries of the recipient's program;
6. Denying a qualified individual with disabilities the opportunity to participate as a member of planning or advisory boards; or
7. Otherwise limiting a qualified individual with disabilities in the enjoyment of any rights, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

Although the word "handicap" is used in the 504 regulations, the phrase "individuals with disabilities" is the current terminology.

## **Section 504 Compliance Plan**

The Compliance Plan serves students, parents, employees, applicants for employment, and programs within the Tipton Community School Corporation's.

The Tipton Community School Corporation assures students, parents, applicants for employment, and employees that it will not discriminate against any individual with disabilities.

### **The following position is designated as Section 504 compliance coordinator:**

Director of Student Services, Mr. Shayne Clark

Tipton Community School Corporation

1051 Main Street

Tipton, Indiana 46072

### **The following positions are designated as Section 504 compliance officers:**

Student/Parent: Director of Student Services/School Resource Officer/Coordinator of Special Services

Employee/Applicant: Director of Student Services

Parents/guardians are provided a copy of procedural safeguards which include **Notice of Parent/Student Rights**.

Notice to students, parents, employees and the general public of nondiscrimination assurances and parent/student rights and identification, evaluation and placement will be disseminated annually in the following manner:

1. Public service announcement in local newspapers;
2. Announcement in the central office; and
3. Posted notice in each public school building.

Additionally, the notice will be included in the administrative handbook of the district and in each parent/student handbook.

The Tipton Community School Corporation will conduct an annual child find campaign to locate and identify all Section 504 qualified individuals with disabilities (ages 0-21) who reside within the jurisdiction of the district.

The Tipton Community School Corporation will inform individuals with disabilities and their parents/guardians of the district's responsibilities and procedural safeguards under Section 504, as well as those under Indiana Article 7, and the IDEA.

## **Hearing and Appeals Process**

An impartial hearing and appeals process for parents/students is available as follows:

### **Step One - Hearing**

The parent/student may file a request for review of the decisions of the Section 504 Committee with the Section 504 compliance officer for students/parents.

An impartial hearing officer will meet with the complainant and other parties involved (as appropriate) to hear evidence/facts regarding 504 decision(s) rendered. The timeline and procedures are outlined in the regulations implementing the Family Educational Rights and Privacy Act and are as follows:

An alleged complaint must be filed in writing within 10 school days with the Section 504 compliance officer. The complaint must fully set out the circumstances, specifically the complaint and how the student is adversely affected.

A hearing will be conducted by an impartial hearing officer. The hearing officer will be appointed and the hearing held within a reasonable amount of time after the request. The hearing officer will give the parent and/or student reasonable advance notice of the date, time, and place of the hearing.

An individual who does not have a direct interest in the outcome of the hearing and is knowledgeable about Section 504 will conduct the hearing.

The hearing officer will give the parent and/or student a full and fair opportunity to present evidence relevant to the issue raised. The parent and/or student may, at their own expense, be assisted or represented by individuals of his/her own choice, including an attorney.

The hearing officer will make a decision, in writing, and present it to the school corporation and the complainant within fifteen days after the hearing. Such decision shall include findings of fact and order, if necessary, which will be binding on all parties. The dated decision shall be sent by mail to the parent/guardian and the superintendent of the school corporation, and shall contain notice of the right to appeal the decision.

The decision of the hearing officer will be based solely on the evidence presented at the hearing and shall include a summary of the evidence and the reason for the decision. The decision shall be implemented no later than twenty (20) instructional days following the date of the decision, unless either party seeks review.

A petition to review (appeal) the decision of a hearing officer may be made by any party to the hearing. The request must be filed in writing to the Section 504 compliance officer and contain specific objections. This review must be filed within 5 instructional days of the receipt of the hearing officer's decision.

### **Step Two - Appeal of Hearing Officer's Determination - Review Committee**

Should a party be dissatisfied with the determination of the hearing officer in Step 1, a complainant may request a review by an impartial committee (2 or 3 persons familiar with Section 504). The procedural steps are the same as Step 1 except that the Section 504 compliance officer will appoint a Chairperson for the Review Committee whose responsibility it is to provide reasonable notice, conduct the hearing, give full and fair opportunity to present relevant evidence (with attorney if so chosen, at parent expense) and to write the decision of the committee for presentation within 15 days after the hearing. The review committee will render a decision based solely on the evidence

presented and cite the reasons for the decision. The review committee will meet with the complainant for this review (appeal) within a reasonable period of time.

## **Grievance Procedures**

The Tipton Community School Corporation has established the following local grievance procedures to resolve complaints of discrimination on the basis of disability.

Any employee, parent/guardian of a student enrolled in the (local school district), or student eighteen years of age or older may file a grievance if s/he believes there has been a violation of Section 504. Any such grievance must be filed in writing within a reasonable period of time after the alleged violation occurred. The grievance must fully state the facts of the alleged violation and the remedy that is being sought.

### **Step One:**

The grievance shall be submitted to the Section 504 Coordinator of the School Corporation who shall investigate the circumstances of the alleged violation. The Section 504 Coordinator shall make a written report of his/her findings of fact and conclusions within ten (10) school days.

### **Step Two:**

If the grievance has not been resolved to the satisfaction of the grievant, s/he may appeal the report of the Section 504 Coordinator to the superintendent of the Richmond Community School Corporation within five (5) school days of receipt of the report. After investigation and within ten (10) school days of receipt of the appeal, the superintendent shall affirm, reverse or modify the report.

### **Step Three:**

If the grievance has not been resolved in STEP TWO to the satisfaction of the grievant, s/he may appeal to the school board within five (5) school days of receipt of the report in STEP TWO. The school board shall conduct an informal hearing in an open meeting to review the alleged violation. The board shall give each party at least five (5) school days' notice of its meeting. The board shall affirm, reverse or modify the report issues under STEP TWO within fifteen (15) schools days of receipt of the appeal.

## **Definitions as Used in Section 504**

An individual with disabilities is one who: [Sec. 104.3 (j) (1)]

1. has a physical or mental impairment which substantially limits one or more major life activities;
2. had a record of such an impairment; or
3. is regarded as having such an impairment.

**A physical or mental impairment is: [Sec. 104.3 (j) (2) (i)]**

1. any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; or
2. any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

**Major life activities are: [Sec. 104.3 (j) (2) (ii)]**

Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

**Has a record of such an impairment means: [Sec. 104.3 (j) (2) (iii)]**

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

**Is regarded as having an impairment means: [Sec. 104.3 (j) (2) (iv)]**

1. has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;
2. has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
3. has none of the impairments defined above but is treated by a recipient as having such an impairment.

**Qualified individuals with disabilities means: [Sec. 104.3 (k)]**

1. with respect to students, is (a) of an age during which individuals without disabilities are provided such services; (b) of an age during which it is mandatory under state law to provide such services to individuals with disabilities; or (c) to whom a state is required to provide a free, appropriate public education under IDEA.
2. with respect to employment, is one who, with reasonable accommodation, can perform the essential functions of the job in question.



For any student who is an individual with disabilities as defined above, a public school district must provide a free, appropriate public education. For any employee of a public school district that is an individual with disabilities as defined above, a public school district must make reasonable accommodations to the known physical or mental limitations of the employee.