



LENOX PUBLIC SCHOOL DISTRICT

THE REHABILITATION ACT OF 1973

SECTION 504

Process and Procedure Manual

Updated May 2016

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INTRODUCTION

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against persons with disabilities, including students, staff members and third parties, by school districts receiving federal financial assistance. This includes all programs or activities of the school district, regardless of whether the specific program or activity involved is a direct recipient of federal funds. Included in the U.S. Department of Education regulations for Section 504 is the requirement that disabled students be provided with a free appropriate public education (FAPE), which is defined as the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of a student with disabilities as adequately as the needs of students without disabilities are met, and that are determined in compliance with certain procedural requirements. These regulations require identification, evaluation, provision of appropriate services, and procedural safeguards in every public school in the United States.

There is some overlap between the responsibilities imparted on a District by the regulations described in the Individuals with Disabilities Education Act (IDEA) and Section 504. Students who are identified as disabled by IDEA are by definition, also identified as disabled under Section 504. The reverse is not true, thus, all students identified as disabled under Section 504 are not necessarily identified as disabled under IDEA.

IDEA is a special education and curriculum response often requiring specialized instruction. In the case of most disabled students, meeting the 504 regulations parallels the requirements of IDEA and state law; thus the District is meeting the standards of the 504 regulations by fulfilling the responsibilities under IDEA and state law. Regardless of whether a student meets the requirements of eligibility for IDEA services, a District may have responsibilities to a student deemed disabled under Section 504.

The IDEA defines as eligible only students who have certain specified types of disabilities and who, because of one or more of those conditions, need special education (specially designed instruction). *Section 504, on the other hand, protects all students with disabilities, defined as those having any physical or mental impairment that substantially limits one or more major life activities..*

If a district has reason to believe that, because of a disability as defined under Section 504, a student needs or is believed to need special education or related services, the district must evaluate the student before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement. If the student is determined to have a disability under Section 504, the district must develop and implement a plan for the delivery of FAPE, namely all needed regular or special education and related aids and services that are designed to meet that student's need as adequately as the needs of students without disabilities are met. Again, these steps must be taken even if the student is not covered by the IDEA special education provisions and procedures.

What is required for the Section 504 evaluation and placement process is determined by the type of disability 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 disability, and what the district needs to do in order to provide FAPE. 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 obtaining medical records from the student's physician, the school nurse meeting with the parent and reviewing the student's current medical records, and obtaining information from teachers and others about the student's functioning in the school setting and in the wider community. In other cases, additional testing may be necessary.

The determination of whether a student has a physical or mental impairment that substantially impacts one or more major life activities, and if so, what services that student might need, must be made by a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. The group must draw upon information from a variety of sources that include, but are not limited to, aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and must ensure that all such information is documented and carefully considered. The decisions about Section 504 eligibility and services must be documented in the student's file and should be reviewed yearly.

It should also be noted that, under Section 504, the parent or guardian must be provided with notice of actions affecting the identification, evaluation, or placement of the student and are entitled to request an impartial due process hearing if they disagree with district decisions in these areas. Parents may also use the District's grievance procedure if they feel there is discrimination based on disability.

In summary, it is important to keep in mind that some students who have physical or mental impairments that substantially limit one or more major life activities are entitled to rights (protection) under Section 504 even though they may not qualify for services under the IDEA.

It is also important to realize that Section 504 is the responsibility of the comprehensive general public education system. As such, building administrators and superintendents of schools, as well as all general and special education teachers, are responsible for its implementation within the district.

DEFINITIONS UNDER SECTION 504/TITLE II

Individual with Disability

. . . “any individual who (8) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such impairment, or (iii) is regarded as having such an impairment.” (34 C.F.R. Section 104.3(j); 28 C.F.R. Section 35.103.

Physical or mental impairment

"(A) 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; genital-urinary; hermic 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." (34 (C.F.R. Section) 104.3; 28 C.F.R. Section 35.104).
Title II further expands this definition to include, but not be limited to, “such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. (28 C.F.R. Section 35.104)

Major life activities

Includes but is not limited to "functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working." (34 C.F.R. Section 104.3). The Americans with Disabilities Amendments Act of 2008 (Amendments Act) expanded the definition of major life activities to include, but not be limited to "eating, sleeping, walking, standing, lifting, bending, ... reading, concentrating, thinking, [and] communicating[.].” Additionally, the Amendments Act provides that major life activities 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.”

*Has a record of
such as
impairment*

..."has a history of, or has been classified as having a mental or physical impairment that substantially limits one or more major activities." (34 CFR Section 104.3; 28 C.F.R. 35.104)

*Is regarded as
having an impairment*

"(A) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting 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 toward such impairment; or (C) has none of the impairments defined but is treated by a recipient as having such an impairment." (34 CFR Section 104.3; 28 C.F.R. 35.104)

DISCRIMINATION UNDER SECTION 504

Discrimination under Section 504 occurs when a recipient of federal funds:

1. Denies a person with disabilities the opportunity to participate in or benefit from an aid, benefit or service which is afforded persons without disabilities
2. Fails to afford the person with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is equal to that afforded others
3. Fails to provide aids, benefits, or services to the person with a disability that are as effective as those provided to persons without disabilities (e.g., placing a student with a hearing impairment in the front row as opposed to providing her with an interpreter).
4. Provides different or separate aids, benefits or services unless such action is necessary to be as effective as the aids, benefits or services provided to persons without disabilities (e.g., segregating students in separate classes, schools or facilities, unless necessary).
5. Aids or perpetuates discrimination by providing significant assistance to an agency, organization or person that discriminates on the basis of handicap (e.g., sponsoring a student organization that excludes persons with handicaps).
6. Denies a person with handicaps the opportunity to participate as a member of a planning or advisory board strictly because of his/her handicapping condition.
7. Otherwise limits the enjoyment of any right, privilege, advantage or opportunity enjoyed by others
8. In determining the site or location of a facility, makes selections which effectively exclude persons with handicaps, denies them the benefits of, or otherwise subjects them to discrimination.

LENOX PUBLIC SCHOOLS

DISTRICT CURRICULUM ACCOMMODATION PLAN

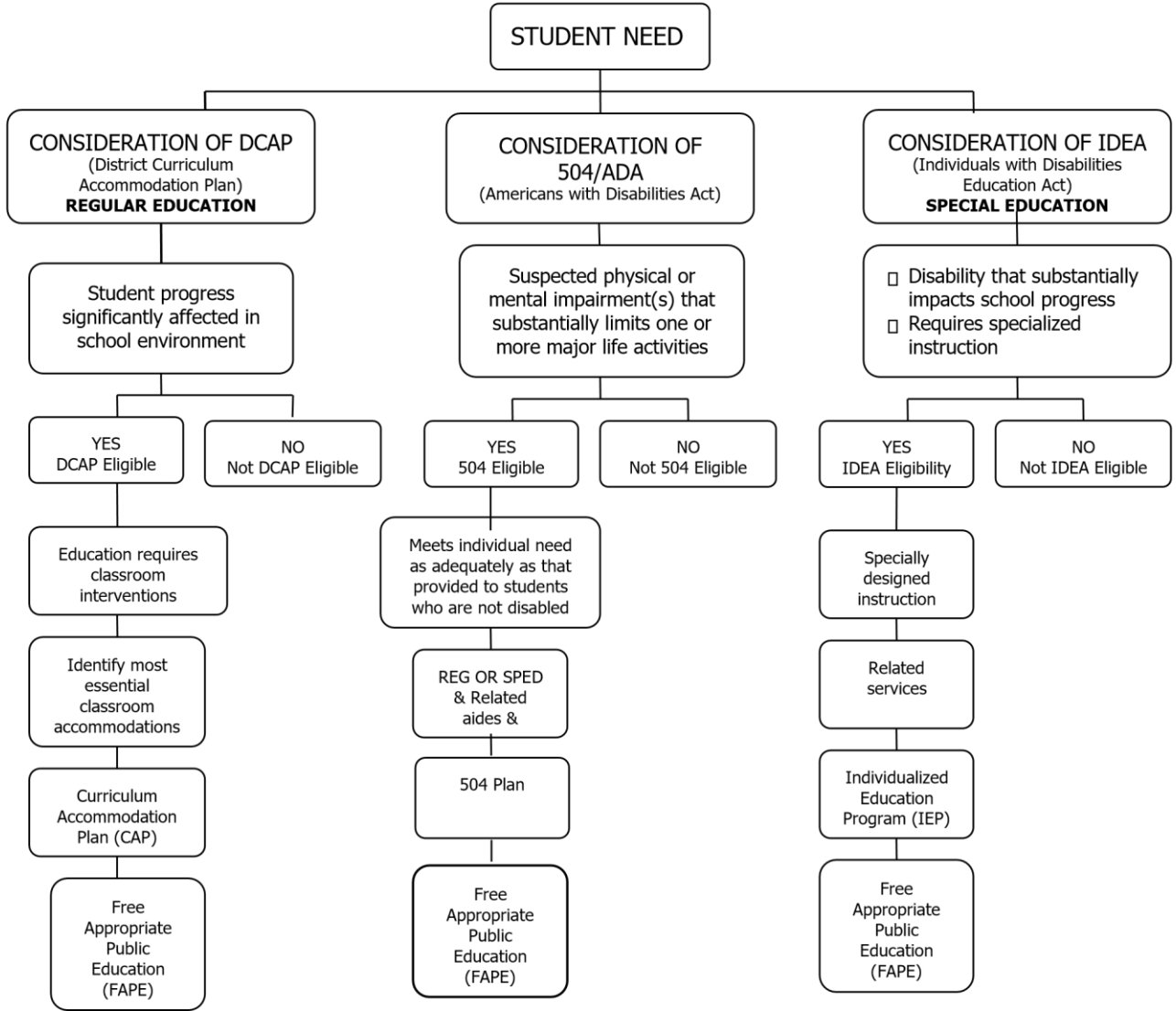
The District Curriculum Accommodation Plan for the Lenox Public School District is designed to support our vision of *providing for all children a challenging and enriching curriculum to enable all students to reach their potential*. This vision is further supported by our Core Value of *"enhancing the learning and teaching process to enable and inspire students to achieve their potential."* The District Curriculum Accommodation Plan is designed to provide opportunities and instruction to all Lenox Public School students through the regular education program. The goal is to ensure that every effort has been extended on behalf of each student for the purpose of achieving his/her potential.

The District Curriculum Accommodation Plan (DCAP) is aligned with other Lenox Public School goals and policy documents including our Vision Statement and Core Values, District Improvement Plan, Strategic Plan, School Improvement Plans, and Professional Development Plan. The goals reflected in these documents include designing challenging learning experiences for all students, aligning state frameworks with district *Learning Expectations*, and developing an accountability system which safeguards against students progressing with unmet learning. (Which insures that students attain optimal academic progress.)

Inherent in this vision is the expectation that natural partnerships are formed to support all students. Literacy programs, guidance services, special education programming, and 504 plans are available depending on the circumstances, eligibility, and needs of the individual student. Curriculum Specialists provide support and professional development for teachers. It is our goal to create a learning environment in which students receive the types of support and accommodations necessary to be optimally successful. These specific programs and services are designed to support and accommodate all students' needs. Any student may access accommodations included in the DCAP and in some cases a student will have a written Curriculum Accommodation Plan (CAP) outlining the specific accommodations that he/she will benefit from.

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FLOW CHART DCAP/504/ IDEA



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Section 504 Procedures

1. Parent, medical provider or school staff identify student who needs or is believed to need special education or related services due to disability and initiates evaluation process. Implementation of the District Curriculum Accommodation Plan should occur consistent with the Section 504 process (if it has not already occurred.)
2. Principal or designee will explain Section 504 eligibility procedure to parent.
3. Student is referred for an evaluation by parent/guardian, medical or other service providers or the school staff.
 - Principal or designee calls a building-based support team meeting to include teacher updates identifying any major concerns, input from specialists, and review of student cum folder
 - Decision is made about the necessary components of the 504 evaluation.
 - Referral is written and sent to parents/guardians.
 - Once written permission is received, evaluation is completed.
 - Section 504 Eligibility Meeting scheduled. Must include persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. May include Administrator/designee, Guidance, Teacher(s), Parent(s), and other specialist services as indicated.
 - Notice of Section 504 Meeting is provided to parents.
 - At Section 504 Meeting, team determines whether student has a *physical or mental impairment(s) that substantially limits one or more major life activities, i.e., is a student with disabilities as defined by Section 504/Title II* using appropriate evaluation procedures in compliance with 34 C.F.R Section 104.33 *et seq.* . If so, team then determines what regular or special education and related aids and services are needed to meet the individual educational needs of a student with disabilities as adequately as the needs of students without disabilities are met.
 - If the team determines that the student *does not have a physical or mental impairment(s) that substantially limits one or more major life activities*, the parent/guardian will be provided notice of their Procedural Safeguards. If it is determined that s/he still needs accommodations, the possibility of a District Curriculum Accommodation Plan (DCAP) will be discussed.

- Reevaluation should be completed on a regular basis, at least every three years. **In addition, any time re-evaluation should be initiated any time the team finds that a student is struggling to access the District's curriculum, programs or services, that there is a change in academic or social engagement, increased absenteeism, a significant rise in behavioral concerns or disciplinary infractions, or has other information indicating that the student's current plan is not appropriate, is not being implemented or that the student may have additional needs.**

FACILITATING A SECTION 504 MEETING

1. Welcome and distribute sign-in sheet.
2. State purpose of meeting: *To determine **eligibility** under Section 504/Title II and an appropriate plan or to review existing eligibility and services in plan.*

Review reason(s) for referral, which may include diagnosis. The group must draw upon information from a variety of sources that include, but are not limited to, aptitude and achievement tests, teacher recommendations, and physical condition, social or cultural background. This may include review of the student's current classroom performance, as well as any medical, social, behavioral and academic performance, attention, organization and any other factors relevant to the suspected impairment and its limitation on any major life activities.

3. The team must ensure that all such information is documented and carefully considered, review the nature of the impairment, whether it substantially limits a major life function, how it affects the student's education and his/her participation in school activities, whether accommodations, services and auxiliary aids and devices are needed, and if so, what those are. Document impairment(s) and its effect(s) on major life activities using Eligibility Determination Summary and 504 Accommodation Plan pages in eSped.

3. Determine whether the impairment substantially limits any major life activities of the student:

- ❖ Eligible under Section 504/Title II:

- Complete a Section 504 Plan.
- With School signature, mail Plan to parent. Mail: cover letter to parent and Parent Rights.
- If Plan not returned signed by parent within 10 school days, distribute to relevant teachers and staff Central Office and CUM Folder.

❖ Not Eligible for Section 504/Title II:

- Provide Parents with Procedural Safeguards
- Determine necessity of a DCAP. If a DCAP is created, place a copy in the CUM Folder and distribute copy of CAP to classroom teacher(s).
- If DCAP not necessary, ensure teachers are aware of the student's needs.

SECTION 504 DISTRIBUTION OF FORMS

1. Classroom Teacher
 - 1 digital copy of Section 504 Plan
2. Other Teachers/Staff***
 - 1 digital copy of Section 504 Plan
3. CUM Folder
 - 1 Copy of Section 504 Plan
4. Central Office – District 504 Coordinator (Director of Student Services)
 - 1 copy of Section 504 Plan
 - 1 copy of Notice of Meeting
 - 1 copy of Section 504 Cover Letter to Parents
 - 1 copy of documentation of the student's disability.
5. Transition from elementary to middle school
 - all 504 documents are available to middle/high school designees at the time of transition in order to be distributed to responsible parties.

NOTE: At the time a plan is written and annually prior to the start of school, 504 Plans should be digitally provided to all staff who have responsibilities under the plan, including but not limited to: nurses, Title I staff, specialists, SPED staff, recess supervisors, cafeteria staff. Documents should be sent with a delivery receipt to verify that staff members have been informed of student needs.

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Parent/Guardian/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 the public education programs without discrimination because of his/her disabling condition(s).
2. Have the school district advise you of your rights under federal law.
3. Receive notice with respect to decisions regarding the identification, evaluation, and/or placement of your child.
4. 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.
5. Have your child educated in facilities and receive services comparable to those provided to students without disabilities.
6. Have identification, evaluation, and placement decisions made based upon a variety of information sources, and by persons who know the student, the meaning of evaluation data, and the placement options.
7. Have your child be given an equal opportunity to participate in non-academic and extracurricular activities offered by the district.
8. Examine all relevant records related to decisions regarding your child's identification, evaluation, educational program and placement.
9. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records.
10. Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate or misleading. If the school district refuses this request for amendment, it shall notify you within a reasonable time, and advise you of the right to appeal.
11. File a grievance and have your grievance heard at various levels of the grievance procedure.
12. Request mediation or an impartial due process hearing related to decisions or actions regarding your child's identification, evaluation and placement. . You and the student may take part in the hearing and have an attorney represent you. Hearing request must be made to William Cameron, Interim Superintendent, Lenox Public Schools, 6 Walker Street, Lenox, MA. 01240

The person in the Lenox Public School District who is responsible for assuring that the district complies with the Section 504 is Kimberly M. Dion, Director of Student Services. Phone number: 413637-5571.

All programs, activities and employment opportunities of the Lenox Public School District are offered without regard to age, race, color, sex, religion, national origin, sexual orientation and disability.

Procedural Safeguards Regarding Section 504 Of The Rehabilitation Act Of 1973

Section 504 is an Act that prohibits discrimination against persons with disabilities in any program or activity receiving federal financial assistance. The Act defines a person with a disability as anyone who:

- Has a mental or physical impairment which substantially limits one or more major life activities (major life activities include activities 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; or
- Is regarded as having such an impairment

In order to fulfill their obligations under Section 504, the schools recognize a responsibility to avoid discrimination in policies, practices and actions regarding their personnel and students. The District does not discriminate on the basis of disability in any of its programs and activities.

The Lenox Public Schools recognizes a responsibility to identify, evaluate, and if the child is determined to be eligible under Section 504/Title II, to provide a Free Appropriate Public Education for students with disabilities.

If the parent or guardian disagrees with the school district's decision regarding identification, evaluation and/or placement, he or she may request an impartial hearing before a hearing officer at the Bureau of Special Education Appeals, whether or not the party has pursued or is pursuing an internal grievance with the Building 504 Coordinator/ principal or the Director of Student Services who is the District 504 Coordinator. You may request the grievance procedures from the Student Services Office located at Morris School.

Under Section 504, parents may examine the records relevant to the District's identification, evaluation, and placement actions. The Family Educational Rights and Privacy Act (FERPA) also specifies rights related to educational records. This act gives the parent or guardian the right to:

- Inspect and review his/her child's educational records;
- Make copies of these records;
- Receive a list of all individuals having access to those records;
- Ask for an explanation of any item in the records;
- Ask for an amendment to any report on the grounds that it is inaccurate, misleading, violates the child's rights; and
- A hearing, before the Superintendent, on the issue if the school refuses to make the amendment.

If there are any questions, please feel free to contact Kimberly Dion, Director of Student Services at 413-637-5571.

cc: Student's Cumulative File /parents



PUBLIC SCHOOLS



William Cameron, Interim Superintendent of Schools
Melissa Falkowski, Asst. Superintendent of Business and Operations
Kimberly Dion, Director of Student Services

LENOX PUBLIC SCHOOLS SECTION 504/ADA GRIEVANCE PROCEDURES

The Lenox Public School District does not discriminate on the basis of disability with regard to admission, access to services, treatment, or employment in any of its programs or activities. Any alleged discriminatory actions within the scope of Section 504 or the Americans with Disabilities Act should be addressed through the grievance procedure which follows:

Step 1

An individual who wishes to file a grievance alleging that disability discrimination prohibited by Section 504 or the Americans with Disabilities Act has occurred may informally discuss the grievance with the building-based 504/ADA Coordinator or, if the grievance involves the building-based 504/ADA Coordinator, Kimberly M. Dion, the District 504 Coordinator.

Step 2

If the grievant chooses not to use the District's informal process in Step 1, the alleged grievance may be filed in writing. The written grievance should fully set out the circumstances giving rise to the alleged grievance and should be filed with the District 504/ADA Coordinator or the alternate named above, as soon as possible, preferably within 30 school days of the alleged discriminatory act. If the grievant requires assistance with writing the grievance, the District will provide such assistance. If the grievance involves the District 504/ADA Coordinator, it may be filed with Marc J. Gosselin Jr., Superintendent.

Step 3

The District 504/ADA Coordinator will conduct an adequate, reliable and impartial investigation of the grievance, during which the parent, student, employee or third party will have the opportunity to present relevant evidence.

The parent, student, or employee may, at their own expense, be assisted or represented by individuals of their choice, including legal counsel. The District 504/ADA Coordinator will present his/her written decision of whether a violation of Section 504/Title II was found, and if so, what steps will be taken to address the discrimination,

to the Superintendent and complainant within ten (10) school days of receiving the complaint. If there is a need to extend the investigation for good cause, the grievant will be promptly notified of the reason for the delay and the date the investigation will be concluded.

Step 4

If the complaint is not satisfactorily resolved through step 2, the complainant may file a written appeal to the Superintendent. To be considered, the written complaint must fully set out the circumstances giving rise to the alleged grievance and must be filed with the Superintendent's Office within ten (10) school days of disposition at Step 2. The Superintendent will schedule a meeting to hear the appeal within ten (10) school days after receipt of the grievance. Within ten (10) school days of that meeting, the Superintendent will issue a written disposition of the alleged grievance.

The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination on the basis of disability with the United States Department of Education's Office for Civil Rights (OCR) at any time."

How to File a Complaint

Online: You may file a complaint with OCR using OCR's electronic complaint form at the following website: <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

Mail or Facsimile: You may mail or send by facsimile information to the address or phone number available at [this link](#). You may use OCR's complaint form <https://ocrcas.ed.gov/>

or write your own letter. If you write your own letter, please include:

- The complainant's name, address and, if possible (although not required), a telephone number where the complainant may be reached during business hours;
- Information about the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required);
- The name and location (city and state) of the institution that committed the alleged discriminatory act(s); and
- A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination.

Email: You may email OCR's [Discrimination Complaint Form](#) or your own signed letter to ocr@ed.gov. If you write your own letter, please include the information identified above.

**LENOX PUBLIC SCHOOLS
SECTION 504/ADA GRIEVANCE FILING FORM**

Date:

Name:

School and/or position:

Place where you may be reached: _____

Address:

Phone:

Nature of your grievance. (Please describe the policy or action you believe may be in violation of Section 504 and/or the ADA. Please identify any person(s) you believe may be responsible.)

If others are affected by the possible violation, please give their names and/or positions:

Please describe any corrective action you wish to see taken with regard to the possible violation. You may also provide other information relevant to this grievance.

Signature of Grievant

Date

Signature of Person Receiving Grievance

Date

Location

SECTION 504 CONTACT INFORMATION

Building Level 504 Contacts: Morris
Elementary School

Brenda Kelley, Principal

bkelly@lenoxps.org

Telephone: (413) 637-5522

Donna Weber, 504Designee dweber@lenoxps.org Telephone:

(413) 637-

5570

Lenox Memorial High School

Michael Knybel, Principal

mknybel@lenoxps.org

Telephone: (413) 637-5560

David Hilfinger, Guidance Department/504 Designee

dhilfinger@lenoxps.org Telephone: (413) 637-5560

District Level 504 Contact:

KimberlyDion

kdion@lenoxps.org

Director of Student Services

504 Coordinator/Title II Coordinator

Morris School

129 West Street

Lenox, MA 01240

(413) 637-5571

Lenox Public Schools
504 Report and Services Usage

Student:	Date:
Teacher:	Grade:
Disability (ies):	

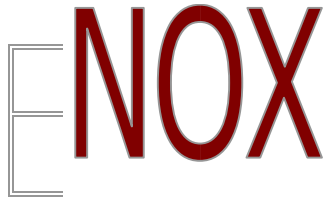
Services	More than 50% of the time	Less than 50% of the time	Never Used	N/A for this content area

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Comments/Concerns/Recommendations:

Teacher's Signature and Date: _____

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PUBLIC SCHOOLS

Timothy Lee, Superintendent of Schools
Henry C. Maimin, Director of Business Services



Ellen Farris, Director of Student Services

Date:

Dear:

Enclosed you will find _____'s 504 plan. Please read the plan carefully and sign the original. Keep the copy for your records and return the original within 10 school days to:

Guidance/Building 504 Chair _____

School Site _____

If you have any questions or concerns please contact me at the phone number listed above.

Sincerely,

Building 504 Chair

Enclosed: Parent Rights and Procedural Safeguards

EVALUATION DATA WORKSHEET

EVALUATION DATA WORKSHEET

Mental or Physical Impairment:

Major Life Activity	School-Related Description of Impairment ^①	Source of Information ^②	Severity				Duration			Substantial Limitation? ^③				
			Mild			Severe	Short-Term	Long-Term		Yes	No			
			1 2	3	4	5	1	2	3	4	5	Yes	No	
Caring for oneself			1 2	3	4	5	1	2	3	4	5	Yes	No	
Performing manual tasks			1	2	3	4	5	1	2	3	4	5	Yes	No
walking			1	2	3	4	5	1	2	3	4	5	Yes	No
seeing			1	2	3	4	5	1	2	3	4	5	Yes	No
hearing			1	2	3	4	5	1	2	3	4	5	Yes	No
speaking			1	2	3	4	5	1	2	3	4	5	Yes	No
breathing			1	2	3	4	5	1	2	3	4	5	Yes	No
learning			1	2	3	4	5	1	2	3	4	5	Yes	No
working			1	2	3	4	5	1	2	3	4	5	Yes	No

other			1 2 3 4 5	1 2 3 4 5	Yes No
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① description of educational-related behaviors associated with specific major life activities affected by mental or physical condition

② listing of persons and/or evaluation techniques used for identifying behaviors associated with impairment

③ based on consideration of the nature, severity, and duration of the impairment

