

Notice of Non-Discrimination:

Blanchester Local Schools

Section 504 Parent Handbook And Procedural Safeguards

Blanchester Local Schools does not discriminate on the basis of race, color, national origin, sex, disability, or age in its admission or access to, or treatment or employment in, its programs and activities. The following person has been designated to handle inquiries regarding Blanchester Local School District non-discrimination policies:

Kristin Unversaw

Special Education Coordinator

951 E.Cherry St.

Blanchester, Ohio 45107

937-783-5040

unversawk@blan.org

Blanchester Local Schools

Parent Handbook

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Part I

Section 504 Information

Section 504 of the Rehabilitation Act of 1973 vs. Individuals with Disabilities Act (IDEA 1997)

On September 25, 2008, the President signed the Americans with Disabilities Act Amendment Act (ADAAA) which states that school systems will service children with a suspected disability in one of two ways:

1. <u>Section 504</u>: Section 504 of the Rehabilitation Act of 1973 states that children can be served through the regular education program, using environmental accommodations, if a disability is shown to substantially limit a major life activity. Examples of major life activities include, but are not limited to:

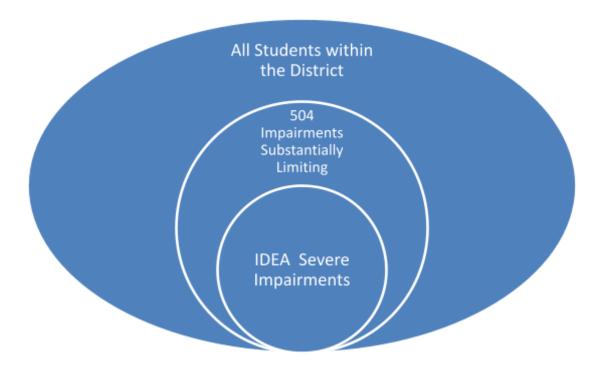
-Self-care	-Eating
-Manual tasks	-Sleeping
-Walking	-Standing
-Seeing	-Lifting
-Hearing	-Bending
-Speaking	-Reading
-Breathing	-Concentrating
-Learning	-Thinking
-Working	-Communicating

Under Section 504, an evaluation must be conducted to determine whether or not the disability is severe enough to substantially limit a life activity. The child's education must be provided in the regular education classroom unless it is demonstrated that education in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily [34 CFR 104.34]. If education in the regular environment with accommodations cannot be achieved satisfactorily, then an evaluation may be conducted to determine whether the student is eligible for special education under the Individuals with Disabilities Act (IDEA).

2. Individuals with Disabilities Act (IDEA 1997): Children who have been diagnosed as having a disorder, and who through a multi-factored evaluation are found to qualify for special education services under Part B of the Individuals with Disabilities Act (formally known as Education of all Handicapped Children Act, P.L. 94-142), will be served under existing state special education programs. Children with a disability who are determined by evaluation team reports (ETR) to be eligible for special education and related services must provide a full continuum of placement alternatives, including the regular classroom.

The determination of a disability may be made by a team of school professionals, including at least one individual with a specific knowledge in the characteristics and treatment of the suspected disability, i.e., a physician or other qualified non-school professionals.

How Does Section 504 Fit?



Comparison of ADA, Section 504, and IDEA

	The Americans with Disabilities Act (ADA); 1990	Section 504 of the Rehabilitation Act (504); 1973	IDEA; 1975
Legal Citation	421 USC 12134 28 CFR Part 35	29 USC 794 34 CFR Part 104	20 USC 1400 et seq. 34 CFR Part 300
Type of Statute	Broader civil rights statute than 504 extending protections to individuals with disabilities in private industry employing more than 15 individuals, public entities, public	Civil rights statute protecting individuals with disabilities from discrimination in programs and activities receiving federal funds.	Federal funding statute providing federal aid to states that ensure the provisions of free appropriate public education (FAPE) to children with disabilities.

	accommodations, telecommunications, and private		
Who is Covered	nonsectarian schools. Any person with a physical/mental impairment which substantially limits one or more major life activities (self-care, manual tasks, walking, seeing, hearing, breathing, learning, working), who has a record of such an impairment, or is regarded as having such an impairment.	Any person with a physical/mental impairment which substantially limits one or more life activities, including but not limited to, self-care, manual tasks, walking, seeing, hearing, breathing, learning, working, sitting, thinking, concentrating, interacting with others, communicating, reading, standing, lifting, bending, or who has a record of such an impairment, or is regarded as having such an impairment.	Infants and toddlers with disabilities 0-2; children 3-21 who meet the definition of a preschool child with a disability or one of thirteen categories of disabilities applicable to school age children.
Major Provisions	No otherwise qualified individual with disabilities shall solely by reason of his or her disability be: excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.	No otherwise qualified individual with disabilities shall solely by reason of his or her disability be: excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.	Ensures procedural safeguards and the right to free appropriate public education in the least restrictive environment in accordance with IDEA.
Evaluations		The evaluation must draw on information from a variety of sources possibly including aptitude and achievement tests, teacher recommendations, physical conditions, social or cultural background and adaptive behaviors, information must be documented. In the elementary and secondary educational context, the important question is whether the disability negatively affects a major life activity which	A comprehensive evaluation assessing all areas related to the child's suspected disability, including, but not limited to, at a minimum, a physical, a social history, a classroom observation, a psychological evaluation as deemed necessary by a school psychologist and a vocational assessment for children over the age of 12. Evaluations must be conducted by a multidisciplinary team

		interferes with educational performance/participation.	and may not rely on one procedure as the sole criteria for determining FAPE. Any evaluation submitted by a parent must be considered by the multidisciplinary team.
Documentation of Placement		Although not required, in writing, a written "Accommodation Plan" is recommended.	Individualized Education Plan (IEP)
Compliance/ Enforcement	Office of Civil Rights, United States Department of Education (OCR) non-compliance may result in loss of IDEA funds and state aid Administrative appeals and/or courts.	Office of Civil Rights, United States Department of Education (OCR) non-compliance may result in loss of IDEA funds and state aid Administrative appeals and/or courts.	Office of Special Education Programs (OSEP); SED non-compliance may result in loss of IDEA funds and state aid Administrative appeals and/or courts.

Adapted from Zinkel, P.A., & Kincaid, J.M. (1993). Section 504, ADA, and the Schools. LRP Publications, Horsham, PA.

Section 504 Definitions

Section 504 of the Rehabilitation Act of 1973; "No otherwise qualified individual with disabilities in the United States shall, solely by reason of his or her disability, as defined in section 706(8) of this title, 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 U.S.C. Sec. 794)

Individuals with a Disability; any individual who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has record of such impairment or is regarded as having such an impairment. (29 U.S.C. Sec. 706 (8))

Physical or Mental Impairment; 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, hermic and lymphatic, skin, and endocrine or any mental or psychological disorder, such as cognitive impairment, organic brain syndrome, emotional or mental illness, and specific learning disabilities.(34 Code of Federal Regulations Part 104.3)

Major Life Activities; functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, sitting, thinking, concentrating, interacting with others/communicating, reading, standing, lifting, and bending. (34 Code of Federal Regulations part 104.3)

Has a Record of Such an Impairment; has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities. (34 Code of Federal Regulations Part 104.3)

Is Regarded as Having an Impairment; Has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such limitation, has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such an impairment, or has none of the impairments defined but is treated by a recipient as having such an impairment. (34 Code of Federal Regulations Part 104.3)

Evaluation; a process whereby information is collected from relevant sources and analyzed to determine a child's current level of functioning. Some of the procedures which may be applied in the process of evaluation include review of records, observations, interviews, completion of checklists or rating scales, and testing.

IDEA; Federal law which requires all state and local school districts to make free appropriate public education available to all children who have been found, through multi-factored evaluation, to meet the established criteria as handicapped under one of thirteen federally defined areas of disability. This law also provides for due process to protect the rights of handicapped children and their parents.

Problem-Solving Team; a problem-solving team is a building level team that includes, parents, regular classroom teacher(s), and other relevant school professionals. This team develops and implements intervention strategies for supporting learning, social and behavioral needs of children. In addition to the classroom teacher, the team may include the principal, other teachers, counselor, school psychologist, support staff, school nurse, and parents.

Evaluation Team Report (ETR); an evaluation, conducted by a team of professionals from different areas of expertise, which assesses more than one area of a child's functioning in order to determine whether or not the child is eligible for special education and related services.

Individual with a Disability; any person who (1) has a physical or mental impairment which substantially limits one or more major life activities, (2) has a record of such impairment, or (3) is regarded as having such an impairment.

Least Restrictive Environment; students with disabilities must be educated with non-disabled students to the maximum extent appropriate to the needs of the student with a disability. A student with a disability shall be placed in the regular education environment unless it is demonstrated by the recipient that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.

Free Appropriate Public Education; students with disabilities must be provided with free appropriate public education regardless of the nature of the severity of the disability. The provision of regular or special education and related aids and services must be appropriate to the extent that they are designed to meet individual educational needs as adequately as the needs of students without disabilities. The provision of educational and related services should be provided without cost to the student with disabilities his/her parents or guardian, except for those fees that are imposed on students without disabilities or their parents or guardians.

Non-Discriminatory Evaluation; the evaluation and placement procedures must be adapted to insure that appropriate identification and placement is made.

Individualized Plan; the provision of regular or special education and related services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met. An intervention team develops a plan of action.

Related Services; transportation and such developmental, corrective, and other supportive services as required to assist a child with a disability to benefit from special education and includes speech-language pathology and audiology services; interpreting services; psychological services, physical and occupational therapy; recreation, including therapeutic recreation; early identification and assessment of disabilities in children; counseling services, including rehabilitation counseling; orientation and mobility services; and medical services for diagnostic or evaluation purposes. Related Services also include school health services and school nurse services, social work services in schools, and parent training and counseling.

Supplementary Aids and Services; aids, services and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with the requirements for least restrictive environment in rule 3301-51-09 of the Administrative Code.

What is the Rehabilitation Act of 1973?

The Act prohibits discrimination on the basis of disability in programs conducted by Federal agencies, in programs receiving Federal financial assistance, in Federal employment, and in the employment practices of Federal contractors.

What is Section 504?

Section 504 is part of the Rehabilitation Act of 1973 which prohibits discrimination based upon disability. Schools, as recipients of federal funds, may not discriminate against an individual, including a student, who may otherwise participate in school activities but is inhibited from participating to the same extent as a nondisabled person.

Section 504 states that: "No otherwise qualified individual with a disability in the United States, as defined in section 706(8) of this title, shall, solely by reason of his or her 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." [29 U.S.C. §794(a), 34 C.F.R. §104.4(a)].

Who is covered under Section 504?

To become eligible for services and protection against discrimination on the basis of disability under Section 504, a student must be determined, as a result of an evaluation, to have, or have a record of having, or is regarded as having a physical or mental impairment that substantially limits one or more major life activities [34 CFR 104.3(j)].

What is an "impairment" as used in the Section 504 definition?

An impairment as used in Section 504 may include any disability, long-term illness, or various disorder that "substantially" reduces or lessens a student's ability to access learning in the educational setting because of a learning, behavior, or health-related condition. "It should be emphasized that a physical or mental impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities" (Appendix A to Part 104, #3).

The definition does not set forth a list of specific diseases, conditions or disorders that constitute impairments because of the difficulty of ensuring the comprehensiveness of any such list. While the definition of a disabled person also includes specific limitations on what persons are classified as disabled under the regulations, it also specifies that only physical and mental impairments are included, thus "environmental, cultural and economic disadvantage are not in themselves covered." (Appendix A to Part 104, #3).

What are "physical and mental impairments"?

504 Regulations [34 CFR 104.3(j)(2)(i)] define a physical or mental impairment under Section 504 as 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;
- Any mental or psychological disorder, such as cognitive impairment, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

What are "major life activities?"

"Major life activities" include, but are not limited to: self-care, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. As of January 1, 2009 with the reauthorization of the *Americans with Disabilities Amendment Act*, (ADAAA) this list has been expanded to also include eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating. This may include individuals with AD/HD, dyslexia, cancer, diabetes, severe allergies, chronic asthma, Tourette's syndrome, digestive disorders, cardiovascular disorders, depression, conduct disorder, oppositional defiant disorder, HIV/AIDS, behavior disorders and temporary disabilities (e.g., broken writing arm, broken leg, etc.). The *Amendments Act* also add a non-exhaustive list of "major bodily functions" that are major life activities, such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Conditions that are episodic or in remission are also covered while active if they create a substantial limitation in one or more major life activity.

What does "substantially limits" mean?

"Substantially limits" is not defined in the federal regulations. However, in a letter from the Office for Civil Rights (OCR), they state, "this is a determination to be made by each local school district and depends on the nature and severity of the person's disabling condition." New guidance from the *Americans with Disabilities Amendment Act* (ADAAA) states that Section 504 standards must conform with the ADAAA and is "intended to afford a broad scope of protection to eligible persons." In considering substantial limitations, students must be measured against their same age, non-disabled peers in the general population and without benefit of medication or other mitigating measures such as learned behavioral or adaptive neurological modifications, assistive technology or accommodations.

Who can refer a child for consideration for evaluation under Section 504?

Anyone can refer a child for evaluation under Section 504. However, while anyone can make a referral, such as parents or a doctor, OCR has stated in a staff memorandum that "the school district must also have reason to believe that the child is in need of services under Section 504 due to a disability" (OCR Memorandum, April 29, 1993). Therefore, a school district does not have to refer or evaluate a child under Section 504 solely upon parental demand. The key to a referral is whether the school district staff suspects that the child is suffering from a mental or physical impairment that substantially limits a major life activity and is in need of either regular education with supplementary services or special education and related services [letter to Mentink, 19 IDELR 1127 (OCR) 1993]. If a parent requests a referral for evaluation, and the school district refuses, the school district must provide the parent with notice of their procedural rights under Section 504.

Who decides whether a student is qualified and eligible for services under Section 504?

According to the federal regulations: "...placement decisions are to be made by a group of persons who are knowledgeable about the child, the meaning of the evaluation data, placement options, least restrictive environment requirements, and comparable facilities" [34 C.F.R. §104.35(c)(3)].

While federal regulations for Section 504 do not require that parents are a part of the decision-making team, Blanchester Local School District feels that parents are in integral part of the team and always include parents as part of the 504 team. Parents are encouraged to contribute any information that they may have (e.g., doctor's reports, outside testing reports, etc.) that would be helpful to the Section 504 team in making the determination as to the accommodations and/or services a student may require in order to appropriately access their education.

What information is used for evaluation under Section 504?

Under Section 504, no formalized testing is required, however, schools must consider a variety of sources of information. A single source of information (such as a doctor's report) cannot be the only information considered. The 504 team may consider current and past grade reports, teacher reports, information from parents or other agencies, state assessment scores or other school administered tests, observations, discipline reports, attendance records, health records and adaptive behavior information. The team will document and consider all information that is submitted.

Can my child be given a 504 plan without my knowledge?

No. Parents must always be given notice before their child is evaluated and/or determined to be eligible for Section 504 services and supports (34 C.F.R. §104.36). Parents will also be given a copy of the District's Section 504 procedural safeguards, as well as their child's Section 504 accommodation plan if the team determines that the child is eligible.

What types of accommodations will my child receive if determined eligible under Section 504?

Determination of what is appropriate for each child is based on the nature of the disabling condition and what that child needs in order to access their education. Section 504 is intended to "level the playing field" and ensure an equal opportunity for students with disabilities.

Will my child still be in the regular education classroom or will he be in a "special class"?

Section 504 accommodations are intended to be delivered in the general education classroom. Decisions to provide services outside the general education classroom are determined by the 504 team and include parent input.

Can my child still be disciplined under Section 504?

Yes. Children under Section 504 are expected to follow the district's student code of conduct. When disciplining a child under Section 504, schools must consider the relationship between the disability and the misbehavior if the child is going to be removed from the regular setting for longer than 10 days. Strict guidelines exist for schools in disciplining students who have a disability under Section 504. Children having disabilities with behavioral components should have individual discipline plans as well as behavior intervention plans.

If I disagree with the school's evaluation, will the school district pay for an outside independent evaluation?

Under Section 504, schools are not required to pay for an outside independent evaluation. If a parent disagrees with the school's evaluation decision, they may follow the *Process for Resolving Disagreement* as described in the Procedural Safeguards/Parents' Rights section of this handbook.

How often will my child be re-evaluated?

While there are no specific timelines for re-evaluation, Blanchester Local School District requires students to be re-evaluated at least every three years or whenever there may be a "significant change in placement." The 504 team will reconvene at least annually to review a child's 504 accommodation plan to ensure that it is appropriate based on individual needs. The accommodation plan may be revised at any time during the school year if needed.

Will my child still be able to participate in nonacademic activities?

Yes. Districts must provide equal opportunity in areas such as counseling, physical education, athletics, transportation, health services, recreational activities, and special interest groups or clubs. However, the "no pass, no play " standard used for students in most states also applies to students under Section 504 (34 C.F.R. §104.37).

What are my rights as a parent under Section 504?

As a parent or legal guardian, you have the right to:

- 1. Receive notice regarding the identification, evaluation and/or placement of your child;
- 2. Examine relevant records pertaining to your child;
- 3. Request an impartial hearing with respect to the district's actions regarding the identification, evaluation, or placement of your child, with an opportunity for the parent/guardian to participate in the hearing, to have representation by an attorney, and to have a review procedure;
- 4. File a complaint with your school District Section 504 Coordinator, who will schedule a case review.
- 5. File a complaint with the appropriate regional Office for Civil Rights.

Do I contact the State Education Agency (SEA) if I have a complaint concerning Section 504?

No. The Ohio Department of Education has no direct jurisdiction over Section 504 implementation. Complaints may be addressed to the local District 504 Coordinator or to the Office for Civil Rights.

District 504 Coordinator

Kristin Unversaw Special Education Coordinator

951 E. Cherry St. Blanchester, Ohio 45107 937-783-5040

Office for Civil Rights

U.S. Department of Education 600 Superior Avenue East Suite 750 Cleveland, OH 44114 (216) 522-4970

Part II Section 504 Procedural Safeguards & Parent's Rights

Section 504 Procedural Safeguards Parent/Student Rights in Identification, Evaluation and Placement

Parents and guardians should be provided their rights under Section 504 when:

- Eligibility is determined
- ✔ A plan is determined
- ✓ There is a significant change in the plan for services

The following is a description of the rights granted by this 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.
- 3. Receive notice with respect to identification, evaluation, 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. It also includes the right to make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
- 5. Have your child educated in facilities and receive services comparable to those provided to non-disabled students.
- Have your child receive special education and related services if he/she is found to be eligible under the Individuals with Disabilities Education Act (IDEA) (PL 101-476), or Section 504 of the Rehabilitation Act of 1973.
- 7. Have evaluation, educational and placement decisions made based upon a variety of information sources, and by a group of persons, including persons knowledgeable about the student, the evaluation data and placement options.
- 8. The right to be informed of any proposed action related to eligibility and plan for services.
- 9. The right to periodic reevaluations and an evaluation before any significant change in program or service modification.
- 10. 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 school district.
- 11. Have your child be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the school district.
- 12. Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program and placement.

- 13. The right to receive all information in the parent's/guardian's native language.
- 14. Obtain copies of your child's educational records at a reasonable cost unless the fee would effectively deny you access to the records.
- 15. Receive a response from the school district to reasonable requests for explanations and interpretations of your child's records.
- 16. Request an 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 school district refuses this request for amendment, it shall notify you within a reasonable amount of time, and advise you of the right to a hearing.
- 17. Request mediation or an impartial due process hearing related to decisions or actions regarding your child's identification, evaluation, educational program or placement.
- 18. File a local grievance.

Process for Resolving Disagreement:

In the event that parents challenge the actions of the school team regarding identification, evaluation or placement of their child, the district provides due process for resolving the dispute.

If parents/students wish to challenge the actions of the Section 504 Team, they may request, in writing, a review of the case by the District's Section 504 Coordinator within 30 days. Blanchester Local School District Section 504 Coordinator is:

Kristin Unversaw Special Education Coordinator Blanchester Local School District 951 E. Cherry St. Blanchester, Ohio 45107

Telephone: 937-783-5040 Fax: 937-352-0389 unversawk@blan.org

The Section 504 Coordinator will schedule a case review. Parents may examine relevant records prior to the case review. At any time, parents may choose to obtain a second opinion evaluation, at the parents' expense. The decision of the Section 504 Coordinator will be submitted in writing to the parents after the conclusion of the case review.

If the parent(s) disagrees with the decision, they may request in writing, an impartial hearing. This request should be sent to the Superintendent, who will designate an impartial hearing officer, who will be responsible for scheduling a hearing within 30 days of the receipt of the written request.

The hearing officer's decision will be submitted in writing to all concerned parties within 14 days of the conclusion of the hearing. Any party dissatisfied with the hearing officer's decision and/or recommendation may submit the issues still in dispute to the Board of Education for review. The Board of Education's decision on the issues submitted will be final.

Section 504 regulations do not establish timelines for submission of a hearing request.

Section 504 regulations do not define "impartial". However, in similar process, "impartial" has been defined as a person not employed by or under contract with the district in any capacity.

Section 504 regulations do not require that the selection of the hearing officer be a mutually agreed upon decision between the school district and the parents/guardians.

If the grievant wishes to appeal the complaint further, the issue may be submitted to:

Cleveland Regional Office Office for Civil Rights U.S. Department of Education 600 Superior Avenue East, Suite 750 Cleveland, OH 44114-2611

Telephone: 216-522-4970 FAX: 216-522-2573; TDD: 877-521-2172 OCR.Cleveland@ed.gov

Notice of Non-Discrimination:

Blanchester Local School District does not discriminate on the basis of race, color, national origin, sex, disability, or age in its admission or access to, or treatment or employment in, it's programs and activities.

Section 504 Grievance Form

Formal Written Statement of Grievance

Directions: If parent/student would like to challenge the actions of the 504 team, the grievant must complete this form and mail or deliver it to the District 504 Coordinator:

Kristin Unversaw			
Special Education Coordinator 951 E. Cherry St.			
Blanchester, Ohio 45107			
The District 504 Coordinator will review the case and respond within 30 days.			
Name of Grievant:			
Home Address:			
Student's Name:			
Nature of Disability:	Date of Complaint:		
Nature of Complaint:			
Resolution Requested:			
Signature of Grievant:	Date:		