

**NOTICE OF
PARENT/STUDENT
RIGHTS**

**Section 504
of the Rehabilitation Act of 1973**

**ELKHART COMMUNITY
SCHOOLS**

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NOTICE OF PARENT/STUDENT RIGHTS IN IDENTIFICATION, EVALUATION, AND PLACEMENT OF INDIVIDUALS WHO ARE DISABLED OR WHO ARE BELIEVED TO BE DISABLED

Section 504 of the Rehabilitation Act of 1973

In compliance with procedural requirements of Section 504 of the Rehabilitation Act of 1973 (34 CFR 104), the following **Notice of Parent/Student Rights In Identification, Evaluation, and Placement** shall be utilized in the Elkhart Community Schools.

The following list of rights and options are given to insure the parent's awareness of regulations about the evaluation of and/or special instruction which may be offered to his/her child. Should the parent have any questions, contact Mary Jo Sartorius. The parent also has the right to meet with the Superintendent or designee, the local School Board, or the Regional Office for Civil Rights to resolve objections to either evaluation or educational placement.

- A. United States Department of Education Office for Civil Rights
400 Maryland Avenue, S.W.
Washington, D.C. 20202-1100
1-800-421-3481
FAX: (202) 245-6840; TDD: (877) 521-2172
E-Mail: OCR@ed.gov
Web: <http://www.ed.gov/ocr/>

Divisions: <http://www.ed.gov/about/offices/list/ocr/docs/howto.htm/>

- B. The following is a description of the rights and options granted by federal law to students with disabilities. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions. You have the right to:
1. Have your child take part in, and receive benefits from, public education programs without discrimination because of his/her disabling condition.
 2. Have the school district advise you of your rights and options under federal law. (34 CFR 104.32)
 3. Receive notice with respect to identification, evaluation, or placement of your child. (34 CFR 104.36)
 4. Have your child receive a free appropriate public education. This includes the right to be educated with students without disabilities to the maximum extent

appropriate. It also includes the right to have the school district make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities, as well as to have the school district provide free educational services (with the exception of certain costs normally paid by the parents of non-disabled students. (34 CFR 104.33 and 104.34)

5. Have your child educated in facilities and receive services comparable to those provided students without disabilities. (34 CFR 104.34)
6. 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), and/or general education intervention/modifications outside of special education under 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 persons who know the student, evaluation data, and placement options. (34 CFR 104.35)
8. Have transportation provided to and from an alternative placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the district.
9. Have your child given an equal opportunity to participate in non-academic and extracurricular activities offered by the district.
10. Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement. (34 CFR 104.36)
11. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records. (34 CFR 104.36)
12. A response from the school district to reasonable requests for explanations and interpretations of your child's records. (34 CFR 104.36)
13. Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your child. If the school district refuses this request for amendment, it shall notify you within a reasonable time and advise you of the right to a hearing. This hearing will be according to the Family Educational Rights and Privacy Act (FERPA) and should not be confused with an impartial due process hearing. (34 CFR 104.36)
14. Request mediation, an impartial hearing, or review (appeal) related to decisions or actions regarding your child's identification, evaluation,

educational program, or placement. The costs for mediation and/or the hearing are borne by the local school corporation. You and the student may take part in the hearing and have an attorney represent you.

15. Hearing requests must be made to the Superintendent of Schools. The following details the procedure:
 - a) If the parent/guardian disagrees with the identification, evaluation, educational placement, or the provisions of a free appropriate public education for his/her child, the parent/guardian may make a written request for a hearing to the Superintendent of Schools, indicating the specific reason(s) for the request. A copy of the request may be filed with the nearest Regional Office for Civil Rights.
 - b) The local school district may initiate a hearing regarding the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student. The local school district shall notify the parent of the specific reason(s) for the request.
 - c) Such hearings shall be conducted within twenty (20) instructional days after the request, unless the hearing officer grants an extension, and at a time and place reasonably convenient to the parent. Upon receipt of the parent's or local school district's request for a hearing, the local Superintendent or designee shall designate the independent hearing officer. The local school district shall bear all costs pertaining to the hearing, including the transcription, hearing officer's fee, and expenses, but shall not be responsible for the fees and expenses incurred by the parent/guardian. The parent involved in a hearing shall be given the right to have the child who is the subject of the hearing present, and/or open the hearing to the public, and be represented by legal counsel or other representative.
 - d) During the pendency of the hearing, unless the local school district and the parent of the child agree otherwise, the child involved in the proceeding shall remain in his/her present educational placement. If there is a dispute regarding this present placement, the hearing officer shall order an interim placement. The present educational placement of the child shall include normal grade advancement if the proceedings extend beyond the end of a school year. If the issue involves an application for initial admission to school, the child, with the consent of the parent, shall be placed in the school until the completion of the proceedings. In the absence of an agreement, the hearing officer shall determine the child's placement during the proceedings.

- e) The child and the parent shall have the right to legal counsel and/or other representation of their own choosing. The local school district may inform the parent of any free or low-cost legal services available in the area if the parent requests the information or if the local school district initiates a hearing. The decision of the hearing officer shall be based solely upon the evidence presented at hearing. The school shall bear the burden of proof as to the appropriateness of any placement, transfer, or the denial of same.
 - f) A tape recording or other verbatim record of the hearing shall be made and transcribed and, upon request, shall be made available to the parent or the parent's representative at local school district's expense. At a reasonable time prior to the hearing, during school hours, the parent or the parent's representative shall be given access to all records of the local school district and any of its agents or employees pertaining to the child, including all tests and reports upon which the proposed action may be based. The parent or parent's representative shall have the right to compel the attendance, to confront, or to cross-examine any witness who may have evidence upon which the proposed action may be based. The parent or the parent's representative and local school district shall have the right to present evidence and testimony, including expert medical, psychological, or educational testimony. Introduction of any evidence at the hearing that has not been disclosed to both parties at least five (5) days before the hearing is prohibited, subject to the discretion of the hearing officer.
 - g) Within fifteen (15) instructional days after the hearing, the hearing officer shall render a decision in writing. Such decision shall include findings of fact, conclusions of law, and orders, if necessary, which will be binding on all parties. The dated decision shall be sent by mail to the parent and the Superintendent of the school and shall contain notice of the right to review the decision. The decision shall be implemented no later than twenty (20) instructional days following the date of the decision, unless review is sought by either party. Should the parent/guardian be represented by legal counsel and ultimately prevail on the issues at the hearing, the parent/guardian may be entitled to payment of all or part of the attorney fees and the cost incurred by the parent/guardian.
16. Request a review (appeal) of the hearing should you not prevail. The following details the procedure:
- a) A petition to review (appeal) the decision of a hearing officer may be made by any party to the hearing. The request must be in writing, filed with the local Superintendent and the opposing party, be specific

as to the objections, and be filed within twenty (20) instructional days of the date the hearing officer's decision is received. The school corporation is responsible for hiring an independent Review (Appeals) Officer to conduct an impartial review of the record as a whole and may, at its election, conduct its review with or without oral argument. Such review shall be conducted within twenty (20) instructional days of the receipt of the Petition for Review, unless either party requests an extension of time or the Board on its own motion extends the timelines.

- b) The Review (Appeals) Officer shall insure a transcription is prepared of its review and made available upon request of any party.
 - c) Any party disagreeing with the decision of the Review (Appeals) Officer may appeal to the Regional Office for Civil Rights.
17. File a local grievance to resolve complaints of discrimination. The procedure is as follows:
- a) An alleged grievance under Section 504 must be filed in writing fully setting out the circumstances giving rise to such grievance.
 - b) Such claims must be made in writing and filed with the Section 504 Coordinator: Mary Jo Sartorius, 2720 California Rd., Elkhart, IN 46514.
 - c) A hearing will be conducted according to the procedures outlined in the regulations implementing the Family Educational Rights and Privacy Act (FERPA).
 - d) The Section 504 Coordinator will appoint a hearing officer who will conduct the hearing within a reasonable time after the request was received.
 - e) The Section 504 Coordinator shall give the parent, student, or employee reasonable advance notice of the date, time, and place of the hearing.
 - f) The hearing may be conducted by any individual, including an official of the local school district, who does not have a direct interest in the outcome of the hearing.
 - g) The local school district shall give the parent, student, or employee full and fair opportunity to present evidence relevant to the issues raised. The parent, student, or employee may, at their own expense, be assisted or represented by individuals of his or her choice, including an attorney.

- h) The local school district shall make its decision in writing within fifteen (15) days after the hearing.
- i) The decision must be based solely on the evidence presented at the hearing and shall include a summary of the evidence and reasons for the decision.

The person in this district who is responsible for assuring that the district complies with Section 504 and the Americans with Disabilities Act (ADA) is: Mary Jo Sartorius, 2720 California Rd., Elkhart, IN 46514, 574-262-5542.

18. You have a right to file a complaint with the Office for Civil Rights (OCR) of the Department of Education. The Federal address is : 400 Maryland Avenue, S.W., Washington, D.C. 20202-1100, 1-800-421-3481.