

# Policy 0570-10

## Education of Exceptional Children

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The West Ada School District will offer a variety of services and programs for students with exceptional needs.

### Gifted and Talented

West Ada School District shall provide instruction and training for children between the ages of five (5) and eighteen (18) years of age who are gifted/talented. "Gifted/talented children" means those students who are identified as possessing demonstrated or potential abilities that give evidence of high performing capabilities in intellectual, creative, specific academic or leadership areas, or ability in the performing or visual arts and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities. These services will be provided in a variety of flexible approaches for instruction and training that may include administrative accommodations, curriculum modifications, and special programs. Students shall meet the criteria established by the district for placement in the district's Gifted and Talented Program.

### School Special Services

West Ada School District will maintain an approved special education program utilizing State Board of Education adopted rules. Further, the Board adopts as policy the Idaho Special Education Manual and all subsequent amendments to the manual as developed by the Idaho State Department of Education, Bureau of Special Education. The Idaho Special Education Manual shall be the official manual of the District for providing special education services. The accompanying forms to the Idaho Special Education Manual are not adopted as policy.

In keeping with Federal and State requirements, all students of school age with disabling conditions, ages three (3) through the semester the student turns 21 enrolled in West Ada School District will be provided a free appropriate public education (FAPE) with access to the full range of required services. The district will provide identification, evaluation, placement, and service activities for eligible students. Written Individual Education Programs (IEP's) shall be developed for each eligible student placed in special education for a handicapping or disabling condition.

## Nonpublic School Students

Public school districts are required by Federal and State regulations to identify nonpublic school students who may need special education and/or related services.

In keeping with these requirements, the West Ada School District follows Child Find procedures as outlined in the Idaho Special Education Manual for evaluation and identification of homeschool students with suspected disabilities who reside within the district's geographic boundaries.

In keeping with these requirements, the West Ada School District follows Private School procedures as outlined in the Idaho Special Education Manual for district consultation with private school representatives regarding students who are educated within the district's geographic boundaries.

West Ada School District also provides information to private schools regarding the process such schools can use to make referrals of students with suspected disabilities who reside within the boundaries of the West Ada School District for evaluation purposes.

Definitions:

- **Public school student:** A student who is enrolled at a traditional school district or charter school.
- **Nonpublic school:** A school other than a public school where educational instruction is provided, and can include, but is not limited to, a private school (either for profit or nonprofit) or a home school.
- **Nonpublic student:** A student who receives educational instruction outside a public school classroom and such instruction can include, but is not limited to, a private school or homeschool.
- **Private school:** A nonpublic school that is not funded by and is not under federal or state control or supervision. A homeschool is not a private school.
- **Homeschool student:** A student in preschool through grade twelve not attending a public or private school and receiving educational instruction in a home school setting at the direction of the student's parent.

## Section 504 of the Rehabilitation Act of 1973

It is the responsibility of the district to ensure that students who are disabled within the definition of Section 504 of the Rehabilitation Act of 1973 are identified, evaluated and provided with appropriate educational services. For those students who need or are believed to need special instruction and/or related services under Section 504 of the Rehabilitation Act of 1973, the district will establish and implement a system of procedural safeguards. The safeguards will cover students' identification, evaluation, and educational placement. This system will include: notice, an opportunity for the student's parent or legal guardian to examine relevant records, an impartial hearing with opportunity for participation by the student's parent or legal guardian, and a review procedure.

The West Ada School District does not discriminate on the basis of disability with regard to admission, access to services, treatment, or employment in its programs or other activities. If any person believes that West Ada School District or any of the District's staff has violated the principles and/or regulations of Section 504 of the Rehabilitation Act of 1973 or Title II of the Americans with Disabilities Act, a complaint may be filed with the district. If discrimination is determined to have occurred, the district will take prompt steps to correct any effects of the discrimination and prevent further occurrence. This complaint procedure does not preclude informal solutions or restrict the right of the complainant to file formal complaints with state and federal agencies or seek private counsel for complaints alleging discrimination at any time.

## Section 504 Hearing

### Purpose and Scope

An impartial hearing process is available to students and their parents to resolve differences dealing with educational services available under Section 504 of the Rehabilitation Act (hereinafter Section 504) when such differences cannot be resolved by less formal means. Students and their parents are encouraged to use Patron Grievance Policy for resolution of differences whenever possible.

The hearing procedures and procedural safeguards set forth in this policy apply to the identification, evaluation, or educational placement of a student, as set forth in 34 C.F.R. (Code of Federal Regulations) 104.36. A student qualifies for a free appropriate public education, including related services under Section 504 if he/she has a physical or mental impairment which substantially limits one or more major life activities.

### Hearing Process

A Section 504 impartial hearing, which shall be closed to the public unless otherwise requested by the parent/guardian, may be requested by the Superintendent or designee or a parent of an affected student on matters directly related to:

- The identification of a student as qualifying as disabled under Section 504;2.
- The evaluation procedures utilized with the student including a decision not to evaluate a student; or
- The educational placement and/or related aids and services recommended for the student including any change in placement as a result of disciplinary action.

In the event a hearing has been held, or is pending, pursuant to the provisions of the Individuals with Disabilities Education Act (IDEA) on any of the issues currently being alleged by the parent/guardian, no hearing officer will be appointed, and no hearing will be held on like issues pursuant to this policy. An IDEA hearing that is resolved by a decision or dismissed with prejudice shall resolve any like issues for which a 504 hearing has been requested.

All requests for a hearing under this policy must be submitted in writing addressed to the Superintendent. The written request for a hearing must contain:

- The specific nature of the dispute;
- The specific relief or remedy requested; and
- Any other information the District or parents believe is important to understanding the dispute.

The hearing process shall be presided over and decided by an impartial hearing officer. The Superintendent or designee shall select an impartial hearing officer within fifteen (15) days of receipt of the written request for a Section 504 hearing. The selected impartial hearing officer shall:

- Be qualified to review school district decisions relating to Section 504;
- Be impartial and unbiased with no professional or personal interest in the matter; and
- Not be an employee of the District.

The selected hearing officer, prior to the hearing, will review the District's actions and notify the parties in writing of the date of the hearing. The parents and the Superintendent or designee shall be given at least ten (10) days notice of the date of the hearing. The notice from the appointed hearing officer shall contain:

- A statement of the time, place, and nature of the hearing;
- A statement of the legal authority and jurisdiction under which the hearing is being held;
- A statement of the availability of relevant records for examination;
- A short and plain statement of the issues in dispute;
- A statement setting forth the right of the student's parent/guardian to participate in the hearing procedure; and
- A statement of the rights of students to be represented by counsel.

All written correspondence shall be provided in English and/or interpreted in the language of the parent/guardian.

The hearing shall be conducted, and a written decision shall be mailed by the hearing officer to all parties within 45 days from the date of the hearing assignment. However, either party to the hearing may request a continuance. The continuance may be granted by the hearing officer upon a showing of good cause. Any continuance(s) granted by the hearing officer shall extend the time for rendering a final hearing decision for a period equal to the length of the continuance(s).

The appointed hearing officer shall preside at the hearing and shall conduct the hearing proceedings in a manner that allows all parties the following rights:

- The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of children with disabilities;
- The right to present evidence and oral arguments;
- The right to an electronic verbatim record of the hearing;
- The right to written findings of fact and a decision on the matter.

Parents involved in the hearing process shall have the right to:

- Have the student present at the hearing; and
- Open the hearing to the public.

In cases where there are language differences, an interpreter shall be provided by the District. The appointed hearing officer shall review all relevant facts presented at the hearing and shall determine whether the student's rights have been fully observed. The hearing officer shall have the authority to uphold, reverse, or modify the District's determination with regard to the:

- Identification of the student as disabled;
- Evaluation procedures utilized with the student including a decision not to evaluate a student; and
- Educational placement and/or services and accommodations recommended for or provided to the student.

## Decision of the Hearing Officer

A copy of the hearing officer's findings of fact and decision shall be delivered to the District and the parent/guardian within 20 days of the conclusion of the hearing.

The decision of the hearing officer is binding on all parties concerned. Appeals may be taken as provided by law. The parent/legal guardian of the student may contact the Seattle Office, Office for Civil Rights, U.S. Department of Education, Email: [OCR.Seattle@ed.gov](mailto:OCR.Seattle@ed.gov); FAX: 206-607-1601; TDD 800-877-8339.

## Record of the Hearing

An electronic verbatim recording of the Section 504 hearing shall be on file at the District administration office and will be available for review upon request by the parent/guardian and/or any of the involved parties.

## DEFINITIONS:

- **Days:** means calendar days.
- **Parents:** means parents or legal guardians.
- **Placement:** means the program concerning the educational placement of the student.

## Out-of-State Students in Residential Facilities

For school-age special education students from outside the state of Idaho who, due to the nature and severity of their disabilities, are residing in licensed public or private residential facilities within the state of Idaho, West Ada School District will provide education services to such students if requested by the licensed public or private residential facility and an agreement is entered into with the residential facility. The district will be given the opportunity to provide input on any federally required education programs or plans for any such students.

For school-age non-special education students from outside the state of Idaho who are residing in licensed public or private residential facilities within the state of Idaho this District may provide education services to such students if requested by the licensed public or private residential facility and an agreement is entered into with the residential facility.

In determining whether a student is from outside the state of Idaho, the District will determine the primary residency of the student's parent or guardian. In no event will a guardianship established for the purpose of avoiding the provisions of this policy and Idaho Code § 33-1002B be considered as establishing residency for any student from outside the state of Idaho. In the event the District is unable to determine the student's residency, it will be presumed the student's residency is outside the state of Idaho.

Proof of Idaho residency of a student's parent or guardian will be established by showing an Idaho motor vehicle driver's license, payment of Idaho state income taxes, or other documentation definitely establishing the residency within the State of Idaho. In the event a guardianship of an out-of-state student is established with an individual residing in Idaho it will be presumed that the residency was established for the purpose of avoiding the provisions of this policy and Idaho Code § 33-1002B, and that student will be considered an out of state student, unless it can be established to the School District's satisfaction that the guardianship was not established in order to circumvent this policy or the provisions of Idaho Code § 33-1002B.

If this District is asked to provide special education services for students from outside the state of Idaho residing at a residential facility, this District will sign a contract with the residential facility. If the residential facility refuses to sign a contract agreeing to pay the full cost of providing the educational services as determined by the District, or is in breach of a current contract, the students' placement will be considered a unilateral change in placement by the parents, and the District will not be responsible for providing the students with special education services.

If this District is requested to provide education services which do not include special education services, this District may elect to sign a contract with the residential facility. In the event the District elects not to sign a contract with the residential facility, or the residential facility refuses to sign a contract, the District will not be responsible for providing any educational services to the out-of-state students residing at the residential facility.

The contract with a residential facility will include the following provisions:

- The education services to be provided by the local school district.

- The amount to be paid by the licensed public or private residential facility.

The amount paid will be equal to this District's full cost of providing the education services delineated by the contract, as determined by the District. Such students will be excluded from all average daily attendance and other reports provided to the state that would result in the distribution of state funding to the District.

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Reference: Code of Idaho, IDAPA 08.02; Idaho Code, Selections 33-2001; 2002; 2003,2005 and 2005A; Federal Regs.,34 CFR Part 300 and 34 CFR,Part 104; Title II of PL 99-457.,Part 104; Title II of PL 99-457