

Education of Students with Disabilities Under Section 504 of the Rehabilitation Act of 1973

A. Free Appropriate Public Education

The district will provide a free appropriate public education to school-age children with disabilities in the district's jurisdiction.

B. Child Find

The district will annually undertake to identify and locate qualified disabled students residing in the district's jurisdiction who are not receiving a public education and take appropriate steps to notify disabled children and their parents/ guardians of the district's responsibilities under Section 504.

C. Equal Educational Opportunity

The district will provide students with disabilities an equal opportunity to participate in and benefit from the educational services it provides to non-disabled students. The teachers of disabled students will meet comparable standards for certification that teachers of non-disabled students meet. Facilities will be of comparable quality and appropriate materials and equipment will be available.

D. Confidentiality of Information

The confidentiality of student records will be maintained throughout the period of time when such records are collected, stored, disclosed or destroyed by the district.

E. Parent Involvement

The district will obtain the consent of parents/ guardians before conducting an evaluation of a student. The district will notify parents/guardians of the evaluation results. The district will notify parents/guardians before initially placing a disabled student or implementing a significant change in the student's placement. The district will notify parents/guardians of their right to review and challenge the district's program and placement decisions if they disagree with them. Section 504 does not give parents/guardians the right to participate in a meeting during which their child's program is designed and placement is determined, as does the IDEA. However, this practice is recommended.

F. Participation in the least restrictive environment

1. **Academic setting.** To the maximum extent appropriate, the district will educate disabled students with non-disabled students. In order to remove a child from the regular educational environment, the district must demonstrate that education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Whenever the district places a student in a setting other than the regular education environment pursuant to this paragraph, it will take into account the proximity of the alternate setting to the student's home.

2. **Non-academic setting.** In providing or arranging for the provision of non-academic and extra-curricular services and activities, including meals, recess periods and the services and activities set forth in 34 CFR 104.37, the district will ensure that disabled students participate with non-disabled students in such activities and services to the maximum extent appropriate.

A. Referral and Screening

If a student, parent/guardian, teacher, counselor or administrator believe they are observing in a student substantially limited performance in one or more major life activities that is believed to be caused by a physical or mental impairment, the concerned individual should complete a referral form and submit it to the designated Section 504 facilitator within the school where the student attends.

A designated team will review referrals to determine if an evaluation is appropriate. If an evaluation appears to be appropriate, the district will obtain written consent from parents/guardians to perform an evaluation and/or gather additional information and will provide parents/guardians with a written statement of their rights under Section 504. If the team determines that an evaluation is not necessary, it will provide written notice to parents/guardians, and forward the results of the screening to the source of the referral.

B. Evaluations

1. If a student needs, or is believed to need section 504 accommodations, the district will evaluate the student prior to placement and before any subsequent "significant change in that placement." An evaluation need not include formal assessments.

Examples of significant changes in placement include:

- a. Expulsion;
 - b. Suspensions which exceed ten consecutive days in a school year;
 - c. Cumulative short-term suspensions which create a pattern of exclusion;
 - d. Transferring a student to home instruction;
 - e. Graduation from high school; and/or
 - f. Significantly changing the composition of the student's class.
2. The district will establish policies and procedures for evaluation and placement which assure that tests and other evaluation materials:
 - a. Have been validated and are administered by trained personnel;
 - b. Are tailored to assess educational need and are not merely based on IQ scores; and
 - c. Reflect aptitude or achievement or whatever else the tests purport to measure and do not reflect the student's impaired sensory, manual or speaking skills (unless the test is designed to measure these particular deficits).
 3. The determination of whether a student is substantially limited in one or more major life activities will be made without regard to any ameliorative effects of mitigating measures which include, but are not limited to: medication, medical supplies, equipment, low-vision devices, prosthetics, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment and supplies, assistive technology, reasonable accommodations, auxiliary aids or services; or learned behavioral or adaptive neurological modifications. However, ameliorative effects of mitigating measures may be

relevant as to whether a student needs any specific accommodation or a 504 accommodation plan.

4. Low vision devices do not include ordinary eyeglasses or contact lenses. The ameliorative effects of ordinary eyeglasses or contact lenses may be considered in determining whether the impairment substantially limits a major life activity.
5. A student with a temporary impairment falls within the scope of Section 504 if the temporary impairment is severe enough that it substantially limits one or more of the student's major life activities. A temporary impairment is one with an actual or expected duration of six months or less. For example, pregnancy is not generally regarded as a disability under Section 504; however, if a student was put on bed rest or otherwise limited due to pregnancy complications, this would be a temporary impairment that would qualify the student as disabled under Section 504.
6. A student with an episodic impairment or a disease in remission qualifies as disabled under Section 504 if the impairment would substantially limit a major life activity when active (e.g. a student whose cancer is in remission).

C. Placement Procedures

A Section 504 team should be composed of persons knowledgeable about the student's disability and the meaning of the evaluation data and service options. The team will convene to review all evaluation results, determine eligibility as a student with a disability under Section 504 and document the meeting in writing. The team composition may vary according to the needs of the student.

In interpreting evaluation data and in making placement decisions, the district will (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior; (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered; (3) ensure that the placement decision is made by a group of persons, including a person knowledgeable about the student, meaning of the valuation data, and the placement options; and (4) ensure that the student is educated with his/her non-disabled peers to the maximum extent appropriate.

Parents and guardians of students who have a plan developed under Section 504 of the Rehabilitation Act of 1973 will be provided a copy of the district policy (see Policy 3247) on the use of isolation and restraint at the time that the plan is created.

If the district affords a free appropriate education to a student but the parent/guardians chooses to place the child elsewhere, the district is not responsible to pay for the out-of-district placement.

D. Annual Review and Re-Evaluations

Section 504 plans must be reviewed at least annually and revised if necessary. The district will provide for periodic re-evaluation of disabled students. No time frame is specified in Section 504; however, re-evaluating students every three years in accordance with the requirements of the IDEA will satisfy Section 504 requirements as well. A reevaluation is also required before any "significant change of placement," as defined above in Part "H."

E. Programming to Meet Individual Needs

The district recognizes that to be appropriate, educational programs for students with disabilities must be designed to meet their individual needs to the same extent that the needs of non-disabled students are met. A procedure, such as the development of an individualized accommodation plan by a knowledgeable team of educational professionals, may be appropriate.

F. Non-Academic Services

The district will provide nonacademic and extracurricular services and activities in such a manner as is necessary to afford disabled students an equal opportunity for participation in such services and activities. Nonacademic and extracurricular services and activities may include counseling services, physical recreation athletics, transportation, health services, recreational activities, interest groups or clubs sponsored by the district, referrals to agencies which provide assistance to disabled persons and employment of students, including both employment by the district and assistance in making available outside employment. The district will observe reasonable health and safety standards for all students.

1. **Counseling Services.** In providing personal, academic or vocational counseling, guidance or placement services to its students, the district will provide these services without discrimination on the basis of disability. The district will ensure that qualified students with disabilities are not counseled toward more restrictive career objectives than are non-disabled students with similar interests and abilities.
2. **Physical education and athletics.** In providing physical education courses and athletics and similar programs and activities to any of its students, the district will not discriminate on the basis of disability. If the district offers physical education courses and operates or supports interscholastic, club or intramural athletics, it will provide an equal opportunity for qualified students with disabilities to participate in these activities.

G. Preschool and Adult Education Programs

In the operation of preschool education, or day care program or activity, or an adult education program or activity, the district will not, on the basis of disability, exclude qualified students with disabilities from the program or activity and will take into account the needs of such persons in determining the aid, benefits or services to be provided under the program or activity.

H. Disciplinary Exclusion

1. Students with disabilities are protected from being improperly excluded from school for disciplinary reasons. Certain disciplinary exclusions of disabled students from school constitute a significant change in the student's educational placement. A disciplinary change in the student's educational placement occurs if the student has been suspended for more than ten consecutive days or if the disciplinary exclusions constitute a "pattern of exclusion" (defined below). Such disciplinary exclusions, which are change of placement, cannot be implemented unless the district first

determines that the student's misconduct which led to the disciplinary exclusion was not a manifestation of the student's disability.

2. If a disciplinary exclusion (suspension or expulsion) which constitutes a change in placement is implemented, the school principal or educational staff person responsible for the imposition of discipline must ensure that a group of qualified professionals (the student's Section 504 Team) determine whether or not the misconduct is a manifestation of the student's disability. The misconduct is considered a manifestation of the disability if the conduct was caused by, or had a direct and substantial relationship to the student's disability. This determination will take into account the student's current evaluation and individualized accommodation plan under Section 504. For students considered disabled under Section 504, there is no obligation to provide educational services during periods of long-term suspension or expulsion when the student's misconduct has been properly determined not to be disability related. However, Washington State law requires the district to provide educational services to all students during a period of suspension or expulsion. If a student's misconduct is determined to be a manifestation of his/her disability, procedures in Section N 3. will be instituted in lieu of either long-term suspension or expulsion.
3. When a student has engaged in misconduct which is a manifestation of his/her disability, expulsion and/or long term suspension should not be imposed if it would result in a change in educational placement (a disciplinary exclusion from school of over ten consecutive days or exclusions which constitute a pattern of exclusion). Days will be measured cumulatively over the period of the entire school year, with any short-term suspensions as counting toward the cumulative total.

When a student's misconduct is related to a disability, additional evaluations and/or a change of placement should be considered. In this circumstance, the Section 504 Team will meet to determine if there is a need for further evaluation or a change of program. If further evaluation is recommended, it will be conducted as soon as reasonably possible.

Suspension or emergency expulsion of a disabled student may occur, without the need to determine if there is a causal connection with the disability, if the suspension or emergency expulsion is ten consecutive days or less, or if more than ten cumulative days is not a pattern of exclusion. A pattern of exclusion occurs if:

- a. The removal is for more than ten school days in a school year;
- b. The student's behavior is substantially similar to the behavior that he/she was previously suspended for.

Additional factors to consider are the length of each removal (suspension, the total amount of time the student has been removed and the proximity of the removals to one another), and the school must determine on a case-by-case basis whether a pattern of removals is significant enough to constitute a change in placement.

4. Students and their parents/guardians will be notified of the results of the manifestation decision and of their right to challenge this decision. Students/parents/guardians are entitled to exercise their rights under Section 504 to file a grievance or initiate a due process hearing.

5. Students who are considered disabled under Section 504 are subject to the same disciplinary processes and results as non-disabled students for misconduct regarding the use, sale or possession of drugs or alcohol at school.

I. Restraint or Isolation

Restraint or isolation of students who have a section 504 plan will be authorized only under the limited circumstances specified in Policy/Procedure 3247 and each incident will require reporting and parent/guardian notification as specified in that policy and procedure.

J. Transportation

If the district places a student in a program not operated by the district, the district will assure that adequate transportation to and from the program is provided at no cost to the parent.

Because the district provides transportation to all its students within a certain geographic area, it will not discriminate in its provision of transportation to students with disabilities.

If the district proposes to terminate a qualified disabled student's bus transportation for inappropriate bus behavior, the district will first determine the relationship between the student's behavior and his or her disabling condition. The parent/guardian will be provided with notice of the results of such determinations and of their right to challenge such determinations.

K. Procedural Requirements

The district will ensure compliance with the requirements of Section 504 by doing the following:

1. Provide written assurance of non-discrimination whenever the district receives federal money.
2. Designate an employee to coordinate the district's Section 504 compliance activities. The Section 504 Coordinator for the district is the Director of Student Services.
3. Provide grievance procedures to resolve complaints of discrimination. Students, parents or employees are entitled to file grievances. The grievance procedures for the district are set out in the Procedure for Policy 3210, Nondiscrimination.
4. Provide notice to students, parents/guardians, employees, unions and professional organizations of the district's nondiscrimination policy in admission and access to programs and activities, and in treatment and employment. Notice will also specify the Section 504 coordinator for the district.
5. Annually undertake to identify and locate all Section 504 qualified disabled children in the district's geographic area who are not receiving a public education.
6. Annually notify disabled persons and their parents/guardians of the district's responsibilities under Section 504.

7. Establish and implement procedural safeguards to be provided to parents/guardians with respect to actions regarding the identification, evaluation or educational placement of persons who, because of disability, need, or are believed to need, special instruction or related services. Procedural safeguards will include:
 - a. Notice of parental/guardian rights;
 - b. An opportunity to examine relevant records;
 - c. An impartial hearing, initiated by either the parents/guardian or the district, with opportunity for participation by the student's parents/guardians. The student/parent/guardian is entitled to have representation by legal counsel; and
 - d. A review procedure.

L. Appropriate Funding

The district recognizes that the regular education funding of the district is the funding source for serving students who are qualified as disabled under Section 504 only. However, if students are dual identified as Section 504 and IDEA eligible, state and federal special education funds can be used. The district will not use money appropriated by the IDEA to serve students found disabled under Section 504 but not the IDEA. The district may use the IDEA money to evaluate a student if the district believes that the student may also be eligible under the IDEA.

M. Accessibility

1. Facilities that were constructed prior to June 3, 1977 need not necessarily be made accessible so long as the program or activity, viewed in its entirety, is readily accessible to persons with disabilities.
2. Buildings or additions constructed since 1980 must be designed and constructed to allow disabled persons the ability to access and use them readily.
3. District's obligation when a building is altered: to the maximum extent feasible, all facilities which are altered after 1980 must be altered to allow accessibility and usability by persons with disabilities.
4. A district can redesign equipment, reassign classes or other services to accessible buildings, assign aides to students, deliver services at alternate accessible sites or alter existing facilities. So long as there are other methods which are as effective in achieving compliance, a district need not undertake structural changes to a building.
5. A district recognizes that some forms of accommodation are unacceptable such as: carrying a student upstairs; segregating all students with mobility impairments due to the inaccessibility of other buildings; having disabled students eat on a separate floor due to an inaccessible cafeteria; denying participation in certain programs such as music, art or assemblies because these programs are inaccessible.
6. District recognition of the meaning of the phrase "to the maximum extent possible." This provision covers the instance where occasionally the nature of an existing facility is such

as to make it impractical or prohibitively expensive to renovate in a manner that results in it being entirely barrier-free. However, in all of these instances, the alteration should provide the maximum amount of physical accessibility feasible.

7. Special Considerations for ADD/ADHD Students

Section 504 obligations apply to all students with disabilities, including students with attention deficit disorder (ADD) or attention-deficit/hyperactivity disorder (ADHD). Under federal guidance, there are three different types of ADHD, which are categorized depending upon which symptoms are the strongest: (1) predominately inattentive type; (2) predominately hyperactive-impulsive type; and (3) combined type (where symptoms of the first two types are equally present). See U.S. Department of Education, Office for Civil Rights, *Students with ADHD and Section 504: A Resource Guide* (July 2016) (available on the Office for Civil Rights' website at

<http://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/disability.html>).

NOTE: Due process hearing or mediation requests must be made directly to the district 504 Compliance Officer. Districts are responsible for arranging for hearing officer and mediator expenses.

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